

**Addendum**  
**[To Participate in City of Fort Collins Cooperative Procurement]**

This Addendum (the “**Addendum**”) is entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2024 (the “**Addendum Effective Date**”) by and between Clear Risk US Corp. a corporation organized and existing under the laws of the State of Delaware (“Clear Risk”) and **CITY OF KINGSPORT**, a municipal corporation chartered under the laws of the State of TENNESSEE (“**Client**”), in order to utilize, by way of cooperative procurement, the ClearRisk Services Agreement entered into between Clear Risk and the City of Fort Collins dated June 15, 2022 and attached hereto as **Exhibit 1** (the “**Fort Collins Agreement**”).

**IN CONSIDERATION** of the mutual covenants contained herein, Clear Risk and the Client agree as follows:

1. **Interpretation.** Capitalized terms used herein and not defined herein shall have the meanings ascribed to such terms in the Fort Collins Agreement. For the purpose of this Addendum, the following terms shall have the following meanings, respectively:

“**Agreement**” means this Addendum together with the Fort Collins Agreement (as amended herein).

“**ClearRisk**” means Clear Risk US Corp.

Any references to “**City of Fort Collins**” in the Fort Collins Agreement shall mean the “**Client**” as defined in this Addendum.

2. **Scope and Schedules.** The Parties intend to utilize the Fort Collins Agreement (as amended herein) for the purposes of the Client’s subscription to access and use the ClearRisk Service. Schedules A, B and C to the Fort Collins Agreement are not applicable to this Agreement and are hereby deleted and replaced with Schedules A and B attached hereto. By executing this Addendum, the undersigned Client and Clear Risk each acknowledge and agree to be bound by the Fort Collins Agreement (as amended herein).
3. **Term.** The term of this Agreement commences on the Joinder Effective Date and, unless terminated earlier in accordance with the Agreement, has an initial term of three (3) years.
4. **Amendments.** The Fort Collins Agreement is hereby amended as follows:

- a. Section 2.2 is hereby deleted and replaced with the following:

*“2.2 **Renewal.** This Agreement may be renewed for succeeding three year terms (each a “**Renewal Term**”) on no less than 30 days prior notice prior to the expiration of the Initial Term or any Renewal Term, which shall be memorialized in writing and executed by the Parties.*

- b. Section 6.3 is hereby deleted and replaced with the following:

*“6.3 **Taxes.** Client is exempt from sales and use tax. A copy of Client’s Sales and Use Tax Exemption shall be provided upon execution of this Addendum.*

- c. Section 9.5 is hereby deleted and replaced with the following:

*Client as a governmental entity is subject to the Tennessee Public Records Act (the “TPRA”), set out in Tenn. Code Ann. §10-7-503 et seq., and any public records as defined by Tenn. Code Ann. § 10-7-503 created or maintained by Client are not confidential and are subject to disclosure in whole or in part, pursuant to the provisions of the TPRA without regard to any provision contained in the Agreement declaring information confidential. Additionally, Client must, upon proper request, release public documents and records as defined by Tenn. Code Ann. §10-7-503 et seq., including, but not limited to, the Agreement and all records*

*created and maintained related to the Agreement, without any requirement to disclose such request to ClearRisk or provide ClearRisk with notice or the time to obtain a protective order. Client does not have the burden of establishing that information is not confidential information or that its release is authorized to release the records. This Section 9.5 serves to meet such burden and authorization of disclosure.*

d. In Section 10.2, all references to “ClearRisk Claims” are amended to read “the ClearRisk Service”. Additionally, because governmental entities in the State of Tennessee may not have the legal authority to agree to limitations of warranties, any limitations set forth in the agreement are only enforceable to the extent permitted by Tennessee law.

e. Section 12 is hereby deleted and replace with the following:

“12     **INDEMNIFICATION BY CLIENT**

*Article II, Section 29 of the Tennessee Constitution prohibits cities from lending their credit to private entities and, therefore, prohibits an agreement by Client to indemnify a third party or agree to a limitation of liability provision. Any indemnity or hold harmless provision contained in the Agreement requiring Client to indemnify or hold harmless Vendor or any other person or entity and any limitation of liability in favor of Vendor is enforceable only to the extent permitted by Tennessee law, provided Client’s monetary limits of liability under any such provision is limited to the monetary limits of liability as provided for in the Tennessee Governmental Tort Liability Act, Tenn. Code Ann. § 29-20-101 et seq. No provision of this Agreement shall act or be deemed a waiver by Client of any immunity, including its rights or privileges or of any provision of the Tennessee Governmental Tort Liability Act, Tenn. Code Ann. § 29-20-101 et seq.*

f. Section 13.2 is hereby deleted and replaced with the following:

“13.2    *Limitation of Liability. TO THE EXTENT PERMITTED BY TENNESSEE LAW AND SUBJECT TO SECTION 13.3 HEREOF, IN NO EVENT WILL EITHER PARTY’S MAXIMUM CUMULATIVE LIABILITY UNDER THIS AGREEMENT ARISING OUT OF OR RELATED TO THIS AGREEMENT OR RELATING TO THE SUBJECT MATTER HEREOF FOR ALL CLAIMS, COSTS, LOSSES AND DAMAGES EXCEED THE LESSER OF (A) \$7,500.00, OR (B) THE AMOUNTS ACTUALLY PAID BY AND DUE FROM CLIENT HEREUNDER IN THE 12 MONTHS PRECEDING THE INCIDENT GIVING RISE TO THE CLAIM OR LIABILITY. THE EXISTENCE OF MORE THAN ONE CLAIM SHALL NOT ENLARGE THIS CUMULATIVE LIMIT.*”

g. Section 14.1(d) is hereby modified to read as follows:

“(d)    *Cyber Liability Insurance, with limits of no less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate for claims each policy year;*”

h. Section 16.14 is hereby amended to read as follows:

*Client is a governmental entity, and the validity of the Agreement is based upon the availability of public funding under its authority. In the event Client fails to appropriate funds or make monies available for any fiscal year covered by the term of this Agreement for the services to be provided, this Agreement shall be terminated on the last day of the fiscal year for which funds were appropriated or monies made available for such purposes without liability to Client, such termination shall not be a breach of this Agreement.*

5.     **Email Notifications.** From time to time, ClearRisk may use a third party application for data submission and such application provides email notifications to Client related to Client’s input of data into the ClearRisk Service. Client is responsible for ensuring that Client’s email address is accurate and complete and that such information remains current at all times during the Term. In order to ensure successful delivery of such email notifications, Client is advised to add IP address

35.169.190.25 hostname infra-mail.formassembly.com or such other domains provided by ClearRisk to Client's safe senders list to prevent email messages from being moved to Client's junk or spam folder. ClearRisk is not liable for any damages whatsoever caused by or resulting from the unsuccessful delivery of email notifications to Client as a result of email notifications being directed to spam or junk filters, incorrect email addresses, incorrect email addresses, or other acts or omissions of Client.

6. **Publicity.** Client agrees: (i) to issue a joint press release with ClearRisk ("**Press Release**") on a mutually agreed date within thirty (30) days of the Effective Date announcing that Client has entered into an agreement to use the ClearRisk Service; and (ii) that ClearRisk may disclose that Client is a Client of ClearRisk. Client will have the right to review and approve the Press Release in advance; such approval shall not be unreasonably delayed or withheld. Each Party may include the name and logo of the other Party in lists of clients or vendors in accordance with the other Party's standard guidelines.
7. **Notices.** All notices under this Agreement shall be delivered in accordance with Section 16.6 of the Fort Collins Agreement to the ClearRisk and Client addresses set forth below:

Clear Risk US Corp:

PMB #111  
2801 Centerville Road  
First Floor  
Wilmington, Delaware  
19808-1609  
Attention: Craig Rowe  
Email: craig@clearrisk.com

Client:

Street  
City, State:  
Zip Code:  
Attention:  
Email:  
Phone:

**Governing Law.** Notwithstanding Section 16.8 of the Fort Collins Agreement, this Agreement and all matters arising out of or relating to this Agreement, whether sounding in contract, tort, or statute, are governed by and construed in accordance with the laws of the State of Tennessee and the federal laws of the United States applicable therein, without giving effect to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the laws of any jurisdiction other than the State of Tennessee to apply and each of the Parties hereby irrevocably attorns to the exclusive jurisdiction of the courts of such State. The application of the *United Nations Convention on Contracts for the International Sale of Goods* to this Agreement is expressly excluded and does not apply to this Agreement.

8. **Signature, Counterparts, and Delivery.** This Addendum may be signed electronically, including through DocuSign and similar applications. This Addendum may be signed in any number of counterparts (including counterparts by scanned or electronic signature) and each counterpart will be deemed an original; taken together, all counterparts will be deemed to constitute one and the same instrument. Delivery of a printed counterpart (whether or not the counterpart was signed electronically) or electronic delivery (including by email transmission or transmission over an electronic signature platform) of an executed counterpart of this Addendum are each as valid, enforceable and binding as if the signatures were upon the same instrument and delivered in person.

**IN WITNESS WHEREOF** the signature of a duly authorized director of each of ClearRisk and Client were hereunto affixed in accordance with their rules and regulations in that behalf contained, the day and year first

before written.

**CLEAR RISK US CORP.**

**City of Kingsport, Tennessee**

\_\_\_\_\_  
Name: Craig Rowe

\_\_\_\_\_  
Paul W. Montgomery, Mayor

Title:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date:

I have authority to bind the corporation.

Attest:

\_\_\_\_\_  
Angela Marshall, Deputy City Recorder

Approved as to form:

\_\_\_\_\_  
Rodney B. Rowlett, III, City Attorney