

Contract For
Professional Consulting Services
For

**Oklahoma City Arena Project
Consultant**

Between

The City of Oklahoma City,
The Oklahoma City Public Property
Authority

and

ICON Venue Group, LLC
d/b/a CAA ICON

Project AE-0001

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CONTRACT FOR PROFESSIONAL CONSULTING SERVICES

This Contract for Professional Consulting Services (“Contract”) is entered into this _____ day of _____, 2024 by and between the City of Oklahoma City a municipal corporation, the Oklahoma City Public Property Authority, a City beneficiary trust, (collectively referred to herein as “City”) and ICON Venue Group, LLC d/b/a CAA ICON (“Consultant”).

WITNESSETH:

PROJECT AE-0001 OKLAHOMA CITY ARENA PROJECT CONSULTANT

WHEREAS, the City and Oklahoma City Thunder desire to collaborate in and contribute funding for the design, permitting, construction and development of the Project and associated amenities that should be constructed as a first-class, state-of-the-art NBA arena which includes at least 750,000 square feet and a total budget of at least \$900,000,000 (collectively, the “Arena Project”).

WHEREAS, the Consultant will provide professional consulting services for the Project in accordance with this Contract, including the scope of work incorporated herein and as set forth in Exhibit A attached hereto.

WHEREAS, the City and Oklahoma City Thunder have entered into a Development Agreement pursuant to which the City and Oklahoma City Thunder have agreed to contribute funds that will be used to design, permit, construct and develop the Project and to agree on governance and the process for decision-making in respect of the Project, on the terms and conditions set out therein.

WHEREAS, the Parties acknowledge that various agreements are necessary to develop, fund, design and construct the Project.

WHEREAS, in order to further the Project, the City desires the services of a consultant having professional expertise in all of the project management disciplines required for project planning, development, programming, design, construction and management of major sports and live entertainment facilities, including the areas of site development, negotiation, planning, budgeting, contracting, operation, and other aspects of project management.

WHEREAS, Consultant and its officers and employees constitute an organization of professional personnel who are experienced and fully qualified to perform the various functions of consulting with respect to the Development Committee’s consideration of the Project.

WHEREAS, City may engage a construction company to act as construction manager for the Project (the “**Construction Manager**”).

WHEREAS, City intends to engage an architectural firm as the architect of record and lead design consultant (the “**Architect**”) to (i) perform or cause to be performed by Architect’s consultants all requisite programming, architectural and engineering design, construction

administration and all other services of a design or engineering nature necessary in connection with the overall and complete design of the Project, and (ii) prepare preliminary, interim and final design plans, specifications, working drawings and other construction documents.

WHEREAS, City desires to engage Consultant as its owner’s representative and project manager to assist in the overall direction, management and oversight of the Project, including activities to be performed by the Architect, as well as any City’s consultants and Specialty Consultants, and Construction Manager and, in connection therewith, to coordinate, oversee and monitor the activities of the Project Team Members, it being understood, however, that Consultant’s Services shall in no way diminish the Project Team Members’ responsibility to perform their respective services in accordance with and otherwise comply with the terms of their respective agreements.

WHEREAS, the Consultant has been selected under the standards adopted and the procedures prescribed by the Resolution establishing procedures for selection of architects, engineers and planners adopted by the Council of the City, as last amended on August 29, 2023.

NOW, THEREFORE, in consideration of the mutual covenants contained hereinafter relating to the Project, the Parties agree to the following:

1. Definitions. All terms and phrases not expressly defined herein shall have their ordinary meanings, consistent with Oklahoma and Oklahoma City law, except where the context clearly indicates a different meaning. For purposes of this Contract, the following terms and phrases shall have the meaning subscribed herein:

- 1.1 “Additional Services” Those services listed in Exhibit C of this Contract, which may or may not be required in the future, depending upon conditions existing during the term of this Contract.

- 1.2 “Architectural Services” Those professional services associated with research, development, design and construction, alteration, and/or repair of real property and improvements thereon, as well as incidental services that members of these professions and those in their employ may logically or justifiably perform, including but not limited to studies, investigations, surveys, evaluations, consultations, planning, programming, conceptual designs, design development, plans and specifications, cost estimates, observations, shop drawing reviews, sample recommendations, assemble operating and maintenance manuals, site visits and other related services.

1.3	“Architect, Engineer and/or Consultant”	Selected architects, engineers and/or consultants for the projects having contracts to perform appropriate professional services.
1.4	“Basic Services”	Those services listed in Exhibit A of this Contract and which are considered essential to the Project.
1.5	“Bidding Documents”	Those documents required to construct, renovate and/or modernize the Project, including but not limited to standard provisions, special provisions, plans and specifications.
1.6	“City Council”	The Council of the City of Oklahoma City, composed of elected representatives.
1.7	“City Manager”	The chief administrative officer of the City.
1.8	“City staff” or “City representative”	Administrative managers and employees of the City under the supervision of the City Manager.
1.9	“Constructability review”	Review of the Project design documents at designated stages of completion to verify applicability of design, building systems and materials incorporated into the design of the Project, relative to the efficiency of and budget for the proposed construction.
1.10	“Contract”	The written agreement between the City and the Consultant covering the services to be performed by the Consultant, and covering the duties, obligations and rights of the Parties.
1.11	“Contractor”	Companies and/or individuals, which are contracted by the City to build or supply materials for the Project.

- 1.12 “Development Agreement” The agreement between the City and the Oklahoma City Thunder dated May 21, 2024 that details the applicable terms and conditions related to the development, design, and construction of the Project, as amended, modified, and supplemented from time to time in accordance with the provisions thereof.
- 1.13 “Development Committee” The committee formed under the Development Agreement, which includes two representatives from the City and two representatives from the Oklahoma City Thunder, for purposes of providing day-to-day management of the Project and of the Consultant, including proposing concepts, strategies and policies, making decisions and providing input and giving instructions and directions to the Consultant in respect of the Project.
- 1.14 “Director of Public Works/City Engineer” The administrative officer of the City in charge of engineering, construction and maintenance in public rights-of-way and design and construction of City capital improvement projects.
- 1.15 “Effective Date” The date of approval by the City of Oklahoma City and the Oklahoma City Public Property Authority.
- 1.16 “Electronic Bidding Process” The electronic process in which the City shall advertise and receive bids. The electronic bidding process is available at www.bidsync.com.
- 1.17 “Final Plans and Specifications” The Project design documents for advertising, bidding and the construction of the Project.
- 1.18 “Fixed Limit of Construction Cost” The amount that has been designated as the maximum amount for the construction cost of the Project.
- 1.19 “Furniture, Fixtures and Equipment” (“FF&E”) Accessory items such as tables, chairs, office furniture, stages, portable flooring, forklifts, floor scrubbers, etc. required for full functionality of a facility.

1.20	“Oklahoma City Thunder”	PBC Sports & Entertainment, LLC, and its subsidiaries and affiliates, which owns and operates the Oklahoma City Thunder, a professional basketball team, which is a member of the National Basketball Association (the “NBA”).
1.21	“On-board review”	An in-progress, Project review of the work of the Architect and/or Engineer of Record.
1.22	“Parties”	The City and the Consultant.
1.23	“Preliminary Report”	The Project design document developed to determine the appearance, size, functions, scale, materials, systems, relationships and cost estimates, but without details required for construction.
1.24	“Program Manager”	The chair of the Development Committee for the Project appointed by the representatives of the Development Committee.
1.25	“Project”	The Project as contemplated by the scope of work and services as provided under this Contract concerning the Arena Project.
1.26	“Project Budget”	The amount of funds included as a part of the approved Program Implementation Plan.
1.27	“Project Requirements”	A document developed by the Development Committee that contains the criteria necessary for the design of the Project.
1.28	“Project Team”	The Development Committee
1.29	“Services”	Duties, services, and functions to be performed by the Consultant hereunder, including the Basic Services and Additional Services (as applicable).

2. Basic Services. The Consultant’s scope of work on the Project shall include professional services to assist the Development Committee, Program Manager, City Manager and all City staff, who will be coordinating with the Oklahoma City Thunder, working on the Project

in the development and implementation of actions necessary for the successful completion of the Project, as particularly identified in Exhibit “A” which is attached hereto and made a part hereof.

- A. Engagement of CAA ICON and Term of the Agreement. City hereby engages Consultant as its owner’s representative in connection with the Project, as more particularly hereinafter described, effective as of the Effective Date, and continuing through November 30, 2028, with the option to extend as may be agreed in writing by the Parties.

- B. Project Personnel. Consultant has overall responsibility for the performance of Services under this Contract. Consultant has assigned Dan Vaillant to the Project to provide executive oversight (“**Executive Oversight**”). Consultant has also assigned Brent Beardslee from the Effective Date until the earlier of the Principal in Charge joining the Project full-time or the end of concept design , and Chris Scott from Effective Date through November 2028 (each a “**Project Executive**”) and Adam Goodwin (“**Principal-in-Charge**”, and together with the Executive Oversight and **Rachel Quinn as Senior Project Executive**, collectively, the “**Project Personnel**”), who shall have the responsibility to oversee and ensure the performance of Services. Consultant may not remove Project Personnel except with Development Committee’s prior written consent, which consent may be withheld or conditioned in their sole and absolute discretion. If any member of Consultant’s Project Personnel is removed, leaves the employ of Consultant or becomes physically incapacitated and unable to perform their assigned services, then Consultant shall replace that person as soon as reasonably practical with substitute personnel with similar capabilities and otherwise reasonably acceptable to the Development Committee. Should City become dissatisfied with the performance of any Project Personnel, City shall notify Consultant with details thereof, and Consultant shall replace that person as soon as reasonably practical following City’s request with substitute personnel with similar capabilities and otherwise acceptable to the Consultant in its sole and absolute discretion. If any member of Consultant’s Project Personnel is removed from the Project without the prior written consent of the Development Committee as provided herein, then Consultant agrees that the Project Personnel will devote their required attention to the Services for the Project from inception to completion. Consultant agrees that the Project personnel assigned to the Project shall include, but not be limited to the individuals listed above, as detailed in Exhibit G.

- C. Project Personnel Liquidated Damages. If the Consultant removes or reassigns one of the Project Personnel (excluding, however, instances where (i) otherwise requested or approved by City, (ii) such personnel become unavailable due to death, disability, or separation from the employment of the Consultant, (iii) becomes physically incapacitated and unable to perform their assigned services, or (iv) as may be otherwise approved by the Development Committee) as a result of a Stop Work Order) without the prior written consent of the Development Committee, then Contractor shall pay to the City, as the City’s only remedy, the sum of Two Hundred Thousand Dollars

(\$200,000) as liquidated damages in each instance. In addition, the City's shall have the right, to be exercised in its sole discretion, to remove, replace or to reduce the scope of services of the Consultant in the event that a member of the Project Personnel has been removed or replaced by the Consultant without the consent of the Development Committee.

- D. Services Not Included. City acknowledges and agrees that Consultant is not acting as an architect, a general contractor, an insurance advisor, an attorney or other counsel, nor other legal representation in connection with the Project. Consultants not responsible to City nor the Project Team for actual architectural work or design, construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Project. City agrees that all of Consultant's consultations with and recommendations to the City or Project Team with respect to design decisions shall be made to assist the City or Project Team in evaluating alternatives from the perspective and interest (including, without limitation, alternatives with respect to value engineering) and are not to be considered a design evaluation of the soundness or effectiveness of any particular design approach. City acknowledges that Consultant is not liable to the City nor the Project Team for any acts or omissions of the Architect, Specialty Consultants (as defined in Section 1.6 below), Construction Manager, or any associated professionals and consultants.

3. Additional Services. Additional Services are Project-related services as enumerated in Exhibit C, attached hereto and made a part hereof, and are not included as Basic Services. Additional Services shall only be provided upon prior written and clearly detailed direction from the Program Manager, acting within the limits of State law, Ordinances of the City of Oklahoma City and policies established by the City Council, and upon acceptance by the Consultant. Any Additional Services performed pursuant to the above written direction shall be paid in accordance with the Compensation and Payment paragraph of this Contract.

4. Authorization of Work and Services. This Contract represents an agreement for the Consultant to provide Basic Services to be compensated through written authorization of a work order by the Program Manager. All or part of the Basic Services may be authorized as required for the implementation of the Project.

5. Reimbursable Expenses. In addition to the fee, City agrees to reimburse Consultant for reasonable costs and expenses incurred by Consultant in performing the Services (collectively, the "**Reimbursable Expenses**"), including without limitation: travel (including accommodations) and subsistence, relocation, reimbursement for costs for Consultant personnel, traveling by airplane will be for coach class seating only, except in the event that a coach class rate is not available through no fault of Consultant. All Reimbursable Expenses will be billed at actual cost and Consultant agrees to adhere to the City's guidelines related to Reimbursable Expenses at all times. and will not include any costs and expenses related to alcoholic beverages. Reimbursable Expenses may also include the cost of any Specialty Consultants or special expenditures made with the prior approval of, or at the specific request of, City; provided that such Reimbursable Expenses for Specialty Consultants will be billed at actual cost without markup. Upon commencement of construction, City is also responsible for providing, directly or

as part of the general contractor's budget, an office to Consultant at or near the site, including five desks and access to one medium size conference room and access to typical office support facilities (copier, telephone, file storage, etc.). The City will be responsible for including the costs of the office in the Project budget and may provide the office through the use of mobile or modular office space provided by the Construction Manager. The aggregate total compensation for all Reimbursable Expenses under this Contract shall not exceed a total amount of Two Million Dollars (\$2,000,000).

6. **Standard of Care.** In providing the Services herein, the Consultant agrees to perform such services with a reasonable standard of care, skill, diligence and professional competency normally employed by professionals performing the same or similar services. The Consultant further agrees to furnish its professional skill and judgment with due care and in accordance with any specific requirements of this Contract. The Services to be provided by the Consultant are to be performed in cooperation with the work and services to be performed by the City, City staff, Development Committee, architects, engineers, consultants and contractors. The Consultant agrees to furnish efficient business administration and management services pursuant to the terms of this Contract and to use its professional efforts at all times in an expeditious and economical manner consistent with the interests of the City. The Consultant agrees to require all of its sub-consultants, by the terms of its sub-consultants' contracts, to provide services at the same standard of reasonable care, skill, diligence, and professional competence required of the Consultant.

7. **Compensation and Payment.**

7.1 **Compensation.** The aggregate total compensation for all Basic Services under this Contract shall not exceed a total fee of Fifteen Million Five Hundred Thousand Dollars (\$15,500,000). Under the terms of this Contract, the Consultant agrees to provide Basic Services to be compensated in an amount as detailed and provided in Exhibit B. Additional Services authorized under this Contract may not exceed an amount of five hundred Thousand Dollars (\$500,000) as is provided in Exhibit C.

7.2 **Additional Services Compensation.** Additional Services, as set out in Exhibit C, are to be used and paid to the Consultant based on prior written authorization of the Program Manager. Additional Services compensation shall be agreed to in writing by the Program Manager and the Consultant and shall not exceed the amount identified in the Compensation and Payment paragraph and Exhibit B of this Contract.

7.3 **Payment.** Payment of claims for incremental work completed. Invoices for the amount and value of the work and services performed by the Consultant shall be submitted monthly to the City and shall meet the standards of quality as established under this Contract. The City agrees to pay the Consultant, as compensation for such services as listed in Exhibit B herein. The invoices shall be prepared and submitted by the Consultant and be accompanied by all supporting data required by the City, as well as a current copy of the Consultant's insurance certificates for this Project. Payment of any invoice for any work or services is not deemed to be recognition of satisfactory performance of said work or services or a waiver of any right of the City or any obligation of the Consultant should it be determined later that said work or services were negligently performed or provided

or were not performed or provided in accordance with the standards required by this Contract.

The Consultant shall present two (2) copies of the invoice with two (2) properly executed claim vouchers to the Program Manager for payment. Payments shall not exceed the Basic Services or Additional Services amounts identified in this Contract. Any amounts to be paid in excess of those set forth in Exhibit B and Exhibit C shall only be authorized by amendment to this Contract.

The Program Manager will review invoices and claim vouchers for payment. Should the Program Manager question or request additional documentation or disapprove all or a portion of any invoice, the Consultant will be notified so that it may provide additional documentation sufficient to demonstrate the invoice and claim should be paid, in whole or in part. However, no invoices or claims shall be paid the aggregate of which are in excess of the not to exceed amounts identified in the Compensation and Payment paragraph and Exhibit B and C of this Contract.

Final payment shall not be deemed to waive any rights or obligations of the Parties to this Contract.

8. Stop Work Order. Upon notice to the Consultant, the Program Manager may issue a stop work order (“Stop Work Order”) suspending the performance of work and/or services under this Contract. The Stop Work Order shall not terminate or suspend any of the required provisions of the Indemnity and Insurance paragraphs of this Contract. In the event the Program Manager issues a Stop Work Order, the Program Manager will provide a copy of such Stop Work Order to any contractor. Notwithstanding the foregoing, if any such Stop Work Order continues for more than 90 days and causes an increase in the costs in the performance hereunder, delay to the completion of the Services, or additional costs or expenses to demobilize or remobilize Project Personnel (collectively, the “Stop Work Costs”), Consultant may provide a written request for the City’s approval for additional fee and Reimbursable Expenses (as the case may be) on account of such Stop Work Order, which approval shall not be unreasonably conditioned, delayed or denied. In the event that the City denies Consultant’s request for such additional fee or Reimbursable Expenses, then Consultant shall have the right to terminate this Contract upon notice of such denial. Further, the City acknowledges and agrees that, in the event of a Stop Work Order described in this Section, Consultant may not be able to provide the Project Personnel described herein, and, in such case, Consultant and the City shall agree on a suitable substitute Project Personnel.

9. No Extra Work. No claims for extra work of any kind or nature or character shall be recognized by or be binding upon the City unless such work or service is first approved in writing by the City.

10. Corrections in Services and Deliverables. The Consultant agrees to make any necessary corrections to the services or deliverables furnished under this Contract, when such contain any errors, deficiencies or inadequacies caused by the Consultant, at no cost to the City. The Consultant further agrees to be liable for any damages caused by its negligence and/or the negligent failure to make such necessary corrections. The Consultant is not relieved of any liability or obligation to correct the Consultant’s errors, deficiencies or inadequacies undiscovered

by the City upon its review or inspection, nor is the Consultant relieved from any liability or obligation to correct for the City staff's lack of review or inspection of said documents, work, services or deliverables.

11. Ownership of Work Product. All documents, notes, drawings, specifications, reports, estimates, summaries, computer files, renderings, models, photographs, field notes, as-built drawings, information, survey results, plans, and any other materials produced, created or accumulated in performing this Contract shall become the property of the City upon payment for services involved in its production, creation or accumulation. Any use in connection with an addition to this Project shall be at the City's sole risk and without liability to the Consultant. Said documents may be reproduced, distributed and published in whole or part without permission or any additional payments or fees to the Consultant. Reuse of said documents by the City shall be at the City's risk and responsibility and not that of the Consultant. The Parties may use any portions of said documents at their own risk and responsibility. During preparation of documents, the Consultant shall do weekly backups of computer files and maintain said backups in a safe and secure off-site location. These back up computer files are the property of the Consultant. In the event of termination of this Contract, the Consultant shall deliver to the City products, solutions and deliverables including, but limited to, all documents, data, drawings, specifications, reports, calculations, field notes, tracings, plans, models, computer files, estimates, summaries and other information and materials accumulated or created in performing this Contract, whether complete or incomplete, unless the notice directs otherwise.

12. Indemnity. The Consultant hereby agrees to release, indemnify, and save harmless the City and any participating public trust, their officers, agents, and employees, from and against (i) any and all loss of or damage to property OR injuries to or death of any person or persons, OR any and all claims, damages, suits, costs, expense, liability, actions, or proceedings of any kind or nature whatsoever, in any way caused by, resulting from, or arising out of the Consultant's negligent acts, operations errors or omissions or the Consultant's use and occupancy of any portion of the Project site, and (ii) any and all loss of or damage to property OR injuries to or death of any person or persons, OR any and all claims, damages, suits, costs, expense, liability, actions, or proceedings of any kind or nature whatsoever (collectively, "Losses"), in any way caused by, resulting from, or arising out of the negligent acts, errors and omissions of the Consultant's officers, employees, representatives, suppliers, invitees, contractors, or agents in connection with this Contract.

The Consultant further agrees, at its expense, to assume the defense of the City and any participating trust, with counsel satisfactory to the City and participating trust. In the event the City determines there is a conflict of interest between the Consultant and the City with respect to legal representation, as may be required hereunder, the Consultant will provide and pay for separate legal counsel to represent the interests of the City. The minimum insurance requirements set forth below shall not be deemed to limit or define the obligations of the Consultant hereunder.

This section shall survive the expiration of this Contract, provided, however, the Consultant shall not be liable hereunder for any loss solely occasioned by the negligence of the City or its officers, agents, and employees. This Indemnity provision does not apply to Workers' Compensation claims by City employees. Each party agrees to give the other party(s) hereto prompt notice, in writing, of any claims, suits, actions or proceedings.

To the extent permitted by law, the City agrees to defend, indemnify and hold harmless the Consultant, its parent, affiliates and subsidiaries and their respective owners, officers, members, managers, directors, agents, and employees (collectively, the “**Consultant Indemnitees**”) from and against any Losses in connection with or as a result of a claim or allegation made against any Consultant Indemnitee which any Consultant Indemnitee may sustain or incur if, and to the extent that, such Losses arise out of the Project; provided, however, that the City shall not be liable to defend, indemnify and hold harmless any Consultant Indemnitee from any Losses to the extent caused by the negligence, gross negligence, or willful misconduct of Consultant, its officers, directors, agents or employees.

13. Insurance. Prior to approval of this Contract, the Consultant shall obtain insurance coverage as provided below. The Consultant must provide, pay for, and maintain the types of insurance policies provided herein, in amounts of coverage not less than those set forth below.

All insurance must be from responsible insurance companies which are authorized to do business in the state of Oklahoma and are acceptable to the City and its participating trusts. The required insurance coverage and policies shall be performable in Oklahoma City, Oklahoma, and shall be construed in accordance with the laws of Oklahoma.

Nothing in this Section shall define or limit the rights of any party to this Contract under any other provision of this Contract, including but not limited to any indemnification provision.

- A. Additional Insureds: All liability policies (except professional liability and worker’s compensation and employer’s liability policies) shall provide that the City and its participating trusts and the Oklahoma City Thunder are named additional insureds without reservation or restriction. The City and any of its participating trusts shall be named as loss payees on the Consultant’s valuable papers insurance policy for this Project.

All insurance coverage of the Consultant shall be primary to any insurance or self-insurance program carried by the City and its participating trusts.

All insurance policies shall include a severability of interest provision wherein claims involving any insured hereunder, except with respect to limits of insurance, interests shall be deemed separate from any and all other interest herein, and coverage shall apply as though each such interest was separately insured.

- B. Deductibles: All deductibles must be declared on the certificate of insurance. If no deductible is declared, the Consultant is stating a deductible does not exist and thus a deductible is not approved or accepted. If the Consultant’s deductible is different than declared, then the City and its participating trusts will hold an equal amount from pay claims until corrected.

Self-insured retentions will not be accepted unless accompanied by a bond (financial guarantee bond) or irrevocable letter of credit guaranteeing payment of the losses, related investigations, claim administration and defense expenses not otherwise covered by the Consultant’s self-insured retention.

- C. Policy Limits: The insurance coverage and limits required of the Consultant under this Contract are designed to meet the minimum requirements of the City and its participating trusts. Such coverage and limits are not designed as a recommended insurance program for the Consultant. The Consultant alone shall be responsible for the sufficiency of its own insurance program. Should the Consultant have any question concerning its exposures to loss under this Contract or the possible insurance coverage needed therefore, the Consultant should seek professional assistance.

Except for professional liability insurance, all policies shall be in the form of an “occurrence” insurance coverage or policy. If any insurance is written in a “claims-made” form, the Consultant shall also provide tail coverage that extends a minimum of two year from the expiration of this Contract.

The minimum aggregate limits of such insurance policies and continuing coverage shall be:

- (1) Worker’s Compensation and Employer’s Liability Insurance. The Consultant shall provide and maintain, during the term of this Contract, worker’s compensation insurance as prescribed by the laws of the state of Oklahoma and employer’s liability Insurance in an amount not less than One Hundred Thousand Dollars (\$100,000.00) each for all its employees employed at the site of the Project, and in case any work is subcontracted, the Consultant shall require the subcontractor similarly to provide worker’s compensation and employer’s liability insurance for all the subcontractor’s employees, unless such employees are covered by the protection afforded by the Consultant. In the event any class of employees engaged in work performed under this Contract or at the site of the Project is not protected under such insurance heretofore mentioned, the Consultant shall provide and shall cause each subcontractor to provide adequate insurance for the protection of the employees not otherwise protected.
- (2) Commercial General Liability Insurance. The Consultant shall provide and maintain commercial general liability insurance coverage sufficient to meet the maximum cumulative liability of all parties to this Contract, including the City and any public trust participating in the Project, under the Governmental Tort Claims Act, 51 O.S. § 151 *et seq.*, (GTCA) and any amendment or addition thereto, as provided herein.

Property damage liability in an amount not less than Two Hundred Thousand Dollars (\$200,000.00) per claimant for loss, damage to or destruction of property, including but not limited to consequential damages arising out of a single accident or occurrence.

All other liability in an amount not less than One Hundred Seventy Five Thousand Dollars (\$175,000.00) per claimant for claims including death, personal injury, and all other claims arising out of a single accident or occurrence.

Single occurrence or accident liability in an amount not less than One Million Dollars (\$1,000,000.00) for any number of claims arising out of a single accident or occurrence.

- (3) Automobile Liability Insurance. The Consultant shall provide and maintain comprehensive automobile liability insurance coverage as to the ownership, maintenance, and use of all owned, non-owned, leased or hired vehicles sufficient to meet the maximum cumulative liability of all parties to this Contract, including the City and any public trust participating in the Project, under the Governmental Tort Claims Act, 51 O.S. § 151 *et seq.*, (GTCA) and any amendment or addition thereto, unless otherwise specifically and expressly provided herein.

Property damage liability in an amount not less than Two Hundred Thousand Dollars (\$200,000.00) per claimant for loss, damage to or destruction of property, including but not limited to consequential damages arising out of a single accident or occurrence.

All other liability in an amount not less than One Hundred Seventy Five Thousand Dollars (\$175,000.00) per claimant for claims including death, personal injury, and all other claims arising out of a single accident or occurrence.

Single occurrence or accident liability in an amount not less than One Million Dollars (\$1,000,000.00) for any number of claims arising out of a single accident or occurrence.

- (4) Valuable Paper Insurance. The Consultant shall provide and maintain valuable paper insurance with a \$10,000,000 aggregate limit (\$10,000 per irreplaceable item) to guarantee the restoration in the event of the loss or destruction of any field notes, drawings, documents, summaries, estimates, reports, specifications, data, as-built drawings, renderings, calculations, tracings, computer files, models or plans (collectively referred to as “documents” in this subparagraph) obtained or prepared as a part of this Contract and to guarantee the delivery of said documents to the City and its participating trusts upon the completion, expiration, cancellation or termination of this Contract. The provision of valuable paper insurance shall not relieve the Consultant of the responsibility of replacing or restoring any and all documents destroyed or lost prior

to delivery at Consultant's sole cost and expense. The City and its participating trusts are to be named as loss payees.

- (5) Professional Liability Insurance. The Consultant shall provide and maintain professional liability insurance coverage in an amount not less than \$1,000,000 aggregate annual limit liability. Such insurance coverage shall be maintained during this Contract, during the construction of the Project, and for a period of two (2) years after the final, formal acceptance of this Project by the City.

- D. Certificates: The insurance coverage and limits required must be evidenced by properly executed certificates of insurance on the form furnished by The City or on forms approved by the Oklahoma Insurance Commissioner. Copies of these certificates have been provided to the Program Manager prior to execution of this Contract and are attached hereto. The certificate(s) must be signed by the authorized representative of the insurance company(s) shown in the certificate(s). The certificate must include the Project number and Project description or name.
- E. Cancellation. There may be no termination, non-renewal, reduction in coverage, or modification of such insurance coverage.

The Consultant authorizes the City and its participating trusts to confirm all information so furnished as to the Consultant's compliance with its bonds and insurance requirements with the Consultant's insurance agents, brokers, surety and insurance carriers. The lapse of any insurance policy or coverage required by this Contract is a breach of this Contract for which the Consultant shall repay and reimburse all payment made under this Contract and such other damages, losses, and costs incurred by the City and its participating trusts. The City and its participating trusts may at their option suspend this Contract until there is full compliance with this paragraph, or may cancel or terminate this Contract and seek damages for the breach of this Contract. The remedies in this paragraph shall not be deemed to waive or release any remedy available to The City and its participating trusts. The City and its participating trusts expressly reserve the right to pursue and enforce any other cause or remedy in equity or at law.

In the event of a reduction in any aggregate limit, the Consultant shall immediately notify the City and its participating trusts and shall make reasonable efforts to have the full amount of the limits appearing on the certificate reinstated. If at any time the City and its participating trusts request a written statement from the insurance company(s) as to any impairments to or reduction of the aggregate limit, the Consultant hereby agrees to promptly authorize and have delivered to the City and its participating trusts such statement.

- F. Duration of Coverage. All insurance coverage required under this Contract except professional liability insurance shall be maintained in full force and effect until completion and formal acceptance of the Project by the City and its participating trusts. The Consultant shall maintain in full force in effect the required professional liability insurance stated above during this Contract, during the

construction of the Project, and for a period of two (2) years after the final, formal acceptance of this Project by the City and its participating trusts.

The requirements of the insurance provisions listed above shall survive the completion, expiration, cancellation or termination of this Contract.

14. Independent Contractor. The Parties agree that the Consultant is an independent contractor and not an employee or joint venture with the City. No third-party beneficiary relationship is hereby established.

15. Sub-Consultants and Sub-Contractors. The Consultant agrees to provide to the Program Manager, for pre-engagement approval and to be submitted with this Contract, a list of any sub-consultants or sub-contractors the Consultant intends to engage to perform services related to this Contract. This list, identified as Exhibit "F", is attached hereto and made a part of this Contract. Such approval may not be unreasonably withheld by the Program Manager. The Consultant is required to update this list as additional sub-consultants or sub-contractors are engaged to perform work on this Project. Notwithstanding the approval of any sub-consultant or sub-contractor hired by the Consultant, the Consultant shall be solely responsible for the fees of such sub-consultant and sub-contractor, the services performed by such sub-consultant and sub-contractor, and directing and supervising such sub-consultant and sub-contractor.

16. Sub-Consultant, Sub-Contractor, and Employee Conflict of Interest. Any work performed by the Consultant's employees, sub-consultants or subcontractors on this Project shall prohibit said persons from contracting with, working for, or otherwise assisting any potential bidder to do any Project-related work for the bidder which may in any way be (or construed to be) a conflict of interest. The Consultant will fully inform and advise all sub-consultants and sub-contractors hired of the provisions contained in this Contract and of the City's requirements hereunder, and will not enter into any contracts inconsistent with the provisions hereof, and will secure performance of the services to be rendered by such sub-consultants and sub-contractors in accordance with and as required by the provisions of this Contract.

It is the requirement of the Consultant to inform all employees, sub-consultants and subcontractors engaged by the Consultant that they are prohibited from entering into any business relationships, formal or otherwise, which may pertain directly or indirectly to this Project and which may in any way, or be construed in any way, be a conflict of interest. It is the duty of the Consultant to notify the Program Manager and City Engineer of any business relationships, formal or otherwise, that its employees, sub-consultants, or subcontractors have which may in any way, or be construed in any way, to be a conflict of interest. Any conflict of interest discovered by the City staff may be cause for rejection of the contract or bid in question and may result in termination of this Contract.

17. Limitation on Services. This Contract contemplates the City will enter into separate agreements with Architects, Engineers, and/or Consultants to provide consulting and engineering services for the Project. Further, the City will enter into separate contracts with contractors to provide for the construction of the Project. In providing the Services required under this Contract, the Consultant shall endeavor to maintain working relationships with the Consultants, Architects and/or engineers of record and the contractors on behalf of the City.

However, nothing in this Contract shall be construed to mean or imply the Consultant assumes any of the responsibilities or duties of the Architects, Consultants and/or engineers of record or the contractors.

18. Confidentiality; Background IP. Except as required by law or legal process, at any time during this Contract and for a period of two years after termination or expiration of this Contract, Consultant shall not disclose non-public information about the terms and provisions of this Contract or any other information relating hereto and to the development of the Project, to any person or entity (except to its employees, affiliates, accountants, attorneys, or agents having the need to know or as necessary to perform the Services). To the extent consistent with the Oklahoma Open Records Act (51 O.S. §§ 24A.1 et. seq.) and the Oklahoma Open Meeting Act (25 O.S. §§ 301 et. seq.) City shall not disclose any non- public information about the terms and provisions of this Contract or about Consultant proprietary documents to any person or entity (except to its employees, financing parties, affiliates, accountants, attorneys, or agents having the need to know, and the Oklahoma City Thunder). Upon request, the recipient of such non-public information (“**Confidential Information**”) shall return or destroy the other party’s Confidential Information; provided, however, such recipient of Confidential Information will be entitled to (a) retain copies of the Confidential Information to the extent that it is automatically preserved or recorded in any computerized data storage device or component or standard back-up or archival systems in the normal course of business, and (b) retain copies of Confidential Information to the extent required by law, regulation or normal document retention policies; provided further that for so long as the recipient retains any Confidential Information, it shall employ the same security measures and exercise the same care in protecting the confidentiality of such information as it does protecting its own information similarly recorded or saved and will continue to be bound by the confidentiality obligation under this Contract with regard to all such Confidential Information. Notwithstanding anything to the contrary in this Contract, Consultant shall have the right to market its participation and role on the Project in any and all Consultant marketing materials, including the company website, proposals, brochures, flyers, client presentations, et cetera, by (a) using images or narrative from any public press release(s), or (b) using other imagery or narrative subsequently released by the City for distribution in the public domain.

To the extent consistent with the Oklahoma Open Records Act (51 O.S. §§ 24A.1 et. seq.), all work product Consultant creates pursuant to this Contract (the “**Work Product**”) shall be considered “work made for hire” under applicable copyright laws. Notwithstanding the foregoing, City acknowledges and agrees that City shall have no ownership, title, license, or other rights to any intellectual property (including, without limitation, copyrights, patents, trademarks, trade secrets, know-how, and other proprietary rights) that was (a) owned, controlled, or developed by Consultant on or before the Effective Date, (b) created by Consultant outside the Services hereunder, or (c) or is otherwise owned by a third party contractor or Specialty Consultant (collectively, the “**Background IP**”), even if the Background IP was used in developing or included within any Work Product and regardless of whether the Background IP has been registered with the appropriate governing body having jurisdiction, is protected under common law, has been reduced to practice, has been perfected, or otherwise.

19. Prohibition Against Collusion. The Consultant warrants it has not employed or retained any company or person other than a bona fide employee working solely for the Consultant to solicit or secure this Contract, and the Consultant further warrants it has not paid

nor agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract. In addition, the Consultant must execute the Anti-Collusion Affidavit attached as Exhibit D.

20. Nondiscrimination. In connection with the performance of work under this Contract, the Consultant agrees as follows:

20.1 The Consultant agrees not to discriminate against any employee or applicant for employment because of age, race, creed, color, sex, national origin, ancestry, or disability as defined by the Americans with Disabilities Act. The Consultant shall take affirmative action to ensure that employees or applicants for employment are treated without regard to their age, race, creed, color, national origin, sex, ancestry, or disability as defined by the Americans with Disabilities Act. Such actions shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruiting or recruitment, advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training, including apprenticeship. The Consultant shall agree to post in a conspicuous place, available to employees and applicants for employment, notices to be provided by the City Clerk of the City of Oklahoma City setting forth provisions of this Section and §25-41 of the Oklahoma City Municipal Code. In addition, the Consultant must execute the Certificate of Nondiscrimination attached as Exhibit E.

20.2 In the event of the Consultant's non-compliance with this nondiscrimination clause, this Contract may be canceled or terminated by the City. The Consultant may be declared by the City ineligible for further contracts with the City until satisfactory proof of intent to comply shall be made by the Consultant.

20.3 The Consultant agrees to include this nondiscrimination clause in any subcontracts connected with the performance of this Contract.

21. Reporting to the City. The Consultant shall report to the Development Committee through the Program Manager on a regular basis and on an as needed basis, as determined by the Development Committee.

22. Hazardous Materials. The Consultant shall have no responsibility for the discovery, presence, handling, removal, disposal of or exposure of persons to hazardous materials of any type or in any form at the Project sites. However, the Consultant agrees to notify the Program Manager of any hazardous materials identified during the performance of the work.

23. Records and Accounts. During the term of this Contract and continuing for a period the longer of five (5) years after the final acceptance of the completed Project by the City, or until the final resolution of any outstanding disputes between the City and the Consultant or the contractor(s) on the Project, the Consultant shall maintain: all documents, notes, drawings, specifications, reports, estimates, summaries, renderings, models, photographs, field notes, as-built drawings, information, survey results, plans, computer files and any other materials produced, created or accumulated in performing this Contract that have not been submitted to the City subsequent to final completion of the Project and its internal accounting records, and other

supporting documents pertaining to the claims and/or invoices for costs of work and/or services of this Contract. The Consultant must maintain its accounting records in accordance with generally accepted accounting principles applied on a consistent basis. The Consultant shall permit periodic audits by the City and the City's authorized representative. The periodic audits of the records in support of claims and invoices for this Contract shall be performed at times and places mutually agreed upon by the City and Consultant. Agreement as to the time and place for audits may not be unreasonably withheld.

24. Termination of Contract.

24.1 **Discretionary Termination.** This Contract may be terminated in whole or in part by the City, in its sole discretion, with or without cause, upon seven (7) days written notice to the Consultant. Such notice of termination shall be effectuated by delivery of a notice to the Consultant pursuant to the Notices paragraph hereof. Upon discretionary termination by the City, the City will pay the Consultant for (a) all work and services rendered and Reimbursable Expenses incurred up to the time of the notice of termination, in accordance with the terms, limits, and conditions of this Contract and as further limited by the not to exceed amounts set out in this Contract, and (b) reasonable, non-cancelable commitments and mobilization costs, as each can be documented to the reasonable satisfaction of the City; provided, however, payment of any of the foregoing amounts shall not waive either party's rights at law or equity to contest the validity of termination and/or that Project Fees or Reimbursable Expenses are properly due and payable.

24.2 **Termination for Default.** This Contract may be terminated for default when one party fails to fulfill or promptly fulfill its obligations under this Contract. Due notice and thirty (30) days must be provided within which to correct the default. After the due notice and thirty days, this Contract may be terminated for default upon fourteen (14) days written notice should the other party fail substantially to perform in accordance with this Contract terms through no fault of the party initiating the termination.

24.3 **Method of Termination.** Upon receipt of the notice of termination, the Consultant shall (i) immediately discontinue all work and services affected unless the notice directs otherwise, and (ii) deliver to the Program Manager copies of all documents, data, drawings, specifications, reports, calculations, field notes, computer files, and other information and materials accumulated in performing this Contract, whether complete or incomplete, for which payment has already been made. Termination herein shall not terminate or suspend any of the required provisions of the "Indemnity" and "Insurance" paragraphs of this Contract. The rights and remedies of the City provided in this paragraph are in addition to any other rights and remedies provided by law or under this Contract.

24.4 **Assignment upon Termination.** In the event of the termination of this Contract prior to completion of Basic Services provided in Exhibit A, regardless of the reason for said termination, the Consultant shall immediately assign to the City those contracts between Consultant and the Consultant's sub-consultants, as the City may designate in writing. With respect to those contracts assigned to and accepted by the City, the City shall only be required to compensate such Consultant's sub-consultants and subcontractors for compensation accruing to such parties under the terms of their agreements with the Consultant from and after the date of such assignment to and

acceptance by the City. All sums claimed by such Consultant's sub-consultants and subcontractors to be due and owing for services performed prior to such assignment and acceptance by the City shall not constitute a debt of the City, and the City shall in no way be deemed liable for such sums. The Consultant shall include this provision and the City/Trust's rights and obligations hereunder in all agreements or contracts entered into with the Consultant's sub-consultants and subcontractors.

25. Assignment. Inasmuch as this Contract is a personal and professional service agreement which relies upon the personal and professional integrity, financial standing and unique ability and expertise of the Consultant to provide professional and personal services to the City, the Parties agree that the Consultant may not assign its obligations, rights or interest in this Contract except as set forth in the "Termination of Contract" paragraph.

26. Compliance with Law, Ordinances, Specifications and Regulations. The Consultant shall comply with all existing federal, state and local laws, and shall exercise the Standard of Care specified in Section 5, of this Contract in incorporating standards, codes, ordinances, administrative regulations, and all amendments and additions thereto, pertaining in any manner to the services provided under the provisions of this Contract.

27. Construction and Enforcement. This Contract shall be construed and enforced in accordance with the laws of the State of Oklahoma. In the event of ambiguity in any of the terms of this Contract, it shall not be construed for or against any party on the basis that such party did or did not author the same.

28. References Not Incorporated. The use of language or definitions from the Federal Acquisition Regulations ("FAR"), the American Institute of Architects ("AIA") or any other publication, are not intended to adopt by reference or otherwise any or all of the language, definitions, regulations or publications or any interpretation thereof.

29. Entire Contract. This Contract, including its Exhibits and any documents or certificates incorporated herein by reference, expresses the entire understanding of the City and the Consultant concerning this Contract. Neither the City nor the Consultant has made or shall be bound by any agreement or any representation to the other concerning this Contract, which is not expressly set forth herein.

30. Amendment. This Contract may only be modified by written amendment of subsequent date hereto, approved by the City and the Consultant. This Contract may be amended as is determined to be necessary including but not limited to, providing for additional services. In the event the Consultant's Basic Services and/or Additional Services are increased or changed so as to materially increase the not to exceed total compensation, the Consultant shall adjust its insurance policies required under this Contract based upon the amended total not to exceed amount.

31. Notices. All notices and orders given pursuant to this Contract shall be in writing and may be delivered (a) by personal delivery; (b) by deposit in the U.S. Mail, marked certified or registered mail, return receipt requested, with postage prepaid; (c) by delivery to a reputable national overnight courier service; or (d) facsimile with electronic confirmation, in any case,

addressed to the parties at the addresses and facsimile numbers set forth below, or set forth in a notice given by a party in accordance with this Section:

To the City:

David E. Todd, P.E., Program Manager
The City of Oklahoma City
MAPS Project Office
420 West Main Street, Suite 400
Oklahoma City, Oklahoma 73102
Phone: (405) 297-3461 Fax: (405) 297-3480

with copy to:

Amy Simpson, City Clerk
The City of Oklahoma City
200 N. Walker, 2nd Floor
Oklahoma City, Oklahoma 73102
Phone: (405) 297-2391 Fax: (405) 297-3121

Deborah K. Miller, Public Works Director/City Engineer
Public Works Department
420 W. Main, 7th Floor
Oklahoma City, Oklahoma 73102
Phone: (405) 297-2581 Fax: (405) 297-2117

To the Consultant:

CAA ICON
Project Number: 530
Attention: General Counsel
5075 South Syracuse Street, Suite 700
Denver, Colorado 80237
GeneralCounsel@caaicon.com

The address of any person or party may be changed by notice to the other party given in the manner described above. All such notices and orders shall be deemed received when delivered or when deposited in the United States mail.

32. Time Is of the Essence. Both the City and the Consultant expressly agree that time is of the essence with respect to this Contract, and the time for performance of each task established by the work orders shall be made a part of this Contract and shall be strictly observed and enforced, subject, however, to the exercise of the Standard of Care set forth in Section 5 of this Contract. Any failure on the part of the City to timely object to the time of performance shall not waive any right of the City to object at a later time.

33. No Damage for Delay. No payment, compensation or adjustment of any kind, other than an approved extension of time, shall be made to the Consultant for damages because of hindrances or delays from any cause in the progress of the work, whether such hindrances or delays be avoidable or unavoidable. The Consultant agrees that it will make no claim for

compensation or damages for any such delays and will accept as full satisfaction for such delays the extensions of time.

34. Severability. In the event that any provision, clause, portion or section of this Contract is unenforceable or invalid for any reason, such unenforceability or invalidity shall not affect the enforceability or validity of the remainder of this Contract.

35. Execution in Counterparts. This Contract may be simultaneously executed in several counterparts (including electronic counterparts such as .pdf), each of which shall be an original and all of which shall constitute but one and the same instrument.

36. Descriptive Headings. The descriptive headings of the sections of this Contract are inserted or annexed for convenience of reference only and do not constitute a part of this Contract, and shall not affect the meaning, construction, interpretation or effect hereof.

37. Survival of Representations. All representations and covenants of the Parties shall survive the expiration of the term of this Contract.

38. Parties Bound. This Contract shall be binding upon and inure to the benefit of all parties and their respective successors and permitted assigns. This Contract is solely for the benefit of the Parties, and none of the provisions hereof are intended to benefit third parties.

39. Venue of Actions and Applicable Law. The Parties agree that if any legal action is brought pursuant to this Contract, such action shall be instituted in the District Court of Oklahoma County. This Contract shall be construed and enforced in accordance with the laws of the State of Oklahoma.

40. Effective Date and Term. The Parties agree that the term of this Contract shall be from the Effective Date. Any work or services provided by the Consultant beyond the term of this Contract shall be negotiated and approved as an amendment to this Contract.

41. Non-Exclusivity. Nothing in this Contract shall be construed as precluding or limiting in any way the right of Consultant to provide consulting or other services of any kind or nature whatsoever to any person or entity as Consultant in its sole discretion deems appropriate.

42. Limitation of Liability.

42.1 In no event shall either party be liable for any consequential, indirect, incidental, special, exemplary, or punitive damages, lost profits or revenues or diminution in value, arising out of or relating to any breach of this Contract whether or not the possibility of such damages has been disclosed in advance or could have been reasonably foreseen, regardless of the legal or equitable theory (contract, tort, or otherwise) upon which the claim is based, and notwithstanding the failure of any agreed upon or other remedy of its essential purpose. This limitation shall not extend, nor be construed to extend, beyond the scope of this Contract.

42.2 To the fullest extent permitted by applicable law, Consultant, its affiliates, and the members, principals, and employees of each of them shall not be liable to the City for any Losses in any way arising out of or relating to this Contract for an aggregate amount in excess of

the proceeds actually paid through applicable insurance policies required hereunder (in no event exceeding the liability limits specified hereunder with respect to each such policy). The provisions of this section shall apply regardless of the form of action, whether in contract, statute, tort (including, without limitation, negligence), or otherwise, and shall survive the completion or termination of this Contract; provided, however, that the limitation on liability described in this section shall not apply in connection with Losses caused by the willful misconduct or gross negligence of Consultant , its officers, directors, or employees.

[signature page follows]

IN WITNESS WHEREOF, the Parties hereto have executed this Contract the day and year first written above.

**ICON VENUE GROUP, LLC, d/b/a CAA
ICON**



President

ATTEST:

THE CITY OF OKLAHOMA CITY

City Clerk

Mayor

Assistant Municipal Counselor

ATTEST:

**OKLAHOMA CITY PUBLIC
PROPERTY AUTHORITY**

Secretary

Chairman

REVIEWED for form and legality.



Deputy Municipal Counselor

**EXHIBIT A
BASIC SERVICES
PROJECT AE-0001
OKLAHOMA CITY ARENA PROJECT CONSULTANT**

Upon written direction by the Program Manager, the Consultant hereby agrees that it will perform in accordance with the standard of care as identified in the Standard of Care paragraph of this Contract, the following services required for the development and implementation of the Project.

I. GENERAL

The Consultant will serve as an extension for the Development Committee. The Consultant will provide administrative and program specific services to enhance the operations of the Development Committee and to assist the Development Committee and City and Oklahoma City Thunder staff in the orderly, efficient and timely management of the Project. The Consultant will work under the direction of the Program Manager or their appointed representative.

The scope of work identified below includes the administrative support and Program initialization functions required to begin work on the Project. Annual renewal of this Contract which may also include an Amendment to this Contract will be developed by the Program Manager and the Consultant to periodically adjust the scope of services. These amendments will include the services required during the pre-design, design, and construction phase of each project as well as any other services which may be necessary for the successful implementation of the Program.

The Consultant shall appoint a representative from the Project Personnel to attend all Development Committee meetings. For regularly scheduled weekly meetings of the Development Committee, the representative will circulate to the Development Committee members and supporting representatives the following documents not less than one business day prior to the applicable Development Committee meeting: (a) the meeting agenda; (b) the minutes from the previous meeting; (c) monthly written status report advising on process against key milestones in accordance with the reporting requirements set out in this Contract or the Development Agreement, or any update thereto in the event that it is a supplemental meeting; and (d) to the extent known, matters to be addressed in the next scheduled Development Committee meeting. The Consultant will be responsible for developing minutes from each Development Committee meeting.

Project Initialization:

1. Meet and confer with Development Committee to review, and as appropriate, make recommendations with respect to:
 - a. Development Committee's overall Project objectives and goals
 - b. Development Committee's Project budget and schedule requirements and associated constraints
 - c. Development Committee's existing information, obligations, and requirements
 - d. Development Committee's Project funding sources and associated requirements and constraints
2. Develop Project implementation plan with Project team:
 - a. Prepare Project communication plan and protocols
 - b. In collaboration with Development Committee's, align expectations of stakeholder involvement
 - c. In collaboration with Development Committee's, create a responsibility matrix identifying roles and responsibilities
3. In collaboration with Development Committee, establish an action plan outlining immediate action items for Project activation.
4. Validate high-level initial overall Project schedule based on Development Committee input and approval:
 - a. Review workflow and logic
 - b. Identify key milestones (e.g., Substantial Completion) and establish decision dates in collaboration with Development Committee
5. Validate overall Project budget and cash flow forecast based on Development Committee input and approval.
6. Review and initiate Project controls procedures and protocols for:
 - a. Project budget tracking and reporting
 - b. Cash flow monitoring
 - c. Invoice and pay applications
 - d. Exposure evaluation and reporting
 - e. Allowance and contingency utilization
 - f. Schedule milestone management
7. Support competitive Request for Proposal ("RFP") process (including bid proposal analysis, interviews, and recommendation for award) for Architect services and negotiate associated professional services contracts in conjunction with City's legal team.
8. Support competitive RFP process (including bid proposal analysis, interviews, and recommendation for award) for Construction Manager/General Contractor ("CM/GC") and negotiate associated CM/GC contract in conjunction with City's legal team.
9. Coordinate a centralized electronic platform for sharing Project information amongst the Project Team.
10. Provide a summary of each respondent to the RFP for Architectural Services. Include an overview of recent projects, general experience with sports venues (specifically NBA venues), analysis of key personnel, and experience with each respondent.

Programming/Pre-Design

1. Collaborate with City's consultants, landowners, Authority Having Jurisdiction ("AHJ")/City departments, and regulatory agencies, as applicable.

2. Advise the Development Committee and appropriate public and private entities responsible for utility installations or relocations within the Project site.
3. Support Request for Proposal (“RFP”) process (including bid proposal analysis, interviews, and recommendation for award) for other key consultants (surveyors, civil engineering, geotechnical, etc.).
4. Initiate collaboration with NBA league officials.
5. Assist in development of Project goals and initiatives including sustainability, DEI, sponsorship, etc.
6. Collaborate with Development Committee throughout programming and concept design phases in order to properly manage Architect’s preparation of the baseline facility program (“Program”), including space allocation, adjacency requirements, and gross square footage.
7. Using established goals and initiatives, assist Development Committee in identifying and confirming Development Committee’s required facility attributes within the Program.
8. Assist Development Committee in defining operational requirements for inclusion in the Program.
9. To the extent available, review Architect’s preparation of the Project’s special conditions, general conditions, and specifications.
10. Coordinate design interface with regulatory agencies and AHJ/City departments and, if applicable, NBA league officials, to comply with review and approval processes.
11. Oversee Architect’s integration of premium products, sponsorship and naming rights requirements into the Program.
12. Reconcile Program and strategy with initial Project schedule and decision timelines.
13. Confirm Program has been completed with Development Committee approval.
14. Assist Development Committee in establishing desired Project delivery methods (i.e., appropriate construction contracting model, permitting strategy, design team engagement).
15. Develop strategy for design, procurement, and delivery of furniture, fixtures and equipment (“FF&E”) requirements in conjunction with Development Committee.

Design

1. Collaborate with Development Committee throughout remaining design phases in order to manage Architect’s design compliance with the Program and Development Committee’s goals and objectives regarding budget, schedule, revenue generation, operations, and tenant improvements
2. Continue coordination of design interface with regulatory agencies and AHJ/City departments, and NBA league office, in order to comply with approval processes.
3. Prepare and refine an estimate of the programmatic construction cost in conjunction with a construction cost estimator or using other cost information.
4. Using the construction cost estimate, validate a Project budget including all cost components required for the Project.
5. Prepare FF&E scope, schedule, and budget with Development Committee and stakeholders.
6. Prepare technology scope, schedule, and budget with the technology integrator, Development Committee, and arena operator (if applicable).
7. Support the City and Architect in obtaining necessary planning and zoning approvals.

8. Support the Development Committee and Architect in finalizing Project's special conditions, general conditions, and specifications.
9. Facilitate Architect workshops to identify and resolve open issues.
10. Obtain Development Committee approval of the design progression and authorization to proceed with design milestones.
11. Provide ongoing review, analysis, and recommendations throughout remaining design phases inputting all Development Committee and operator requirements.
12. Manage CM/GC cost estimating and scheduling analyses.
13. Review cost estimates and facilitate resolution of discrepancies.
14. Lead value analysis and cost reduction efforts.
15. Assist with formal partnering process. Foster an open and collaborative working relationship between the Design Team and CM/GC throughout the entire project, with the CM/GC participating in the design meetings for cost and constructability feedback.
16. Assist in Managing the Design Team's contract and negotiating all Additional Service Requests.

Pre-Construction

1. Confirm development of Building Information Modeling ("BIM") Plan between Architect and CM/GC teams to identify and resolve design and construction conflicts.
2. Review CM/GC development of Project means and methods, including phasing, and logistics to identify and resolve conflicts.
3. Coordinate FF&E requirements with Architect for incorporation into the facility design.
4. Maintain updated Project budget incorporating value engineering and cost reduction opportunities to Client.
5. Prepare detailed monthly cash flow schedule and coordinate with City's finance and accounting personnel to facilitate ongoing funding management.
6. Assist City in obtaining building permits and regulatory approvals for construction to begin.
7. Support the Client and Architect in preparing design packages for CM/GC to prepare guaranteed maximum price ("GMP") or other final cost estimate and to commence construction.
8. Review, analyze, and negotiate the GMP or other final cost estimate package with CM/GC, in collaboration with Client and Architect, to include:
 - a. Critical path schedule
 - b. Project logistics plans
 - c. Construction contingency and allowances with respect to status of design and known issues
 - d. Clarifications and assumptions
 - e. General conditions and general requirements
9. Working with Thunder and City's counsel, finalize documentation to initiate construction, such as CM/GC's GMP Amendment, and/or notice to proceed for City's approval and issuance.
10. Assist with facilitating partnering sessions
11. Assist with groundbreakings
12. Collaborate with the Development Committee to establish and execute a public relations strategy
 - a. Social media publications and interactions

- b. Public meetings
- c. Press releases
- d. Interviews

Construction Administration

1. The Construction Administration services will focus on the delivery of the new arena and associated on-site improvements. All management and oversight of the site enabling activities and all off-site improvements including, but not limited to, utility relocations and enhancements, demolition of psm/cox convention center, improvements to roadways and traffic networks and hazardous materials abatement (if necessary) will be the City's responsibility.
2. Maintain Project controls procedures and document control protocols for invoice/pay applications, Project budget tracking/reporting, cash flow monitoring, exposure evaluation/reporting, and monitoring of schedule milestones.
3. Facilitate Architect's resolution of issues related to requests for information (RFIs), shop drawings, and other submittals.
4. Coordinate Development Committee, Architect, and Contractor (OAC) and other construction progress meetings.
5. Facilitate resolution of field issues and conflicts with the goal of preventing potential cost claims and delay notices.
6. Review and analyze Architect's and CM/GC's proposed additional service requests, construction impacts, scope changes, and change order requests for entitlement and accuracy and prepare recommendations to City to accept, reject or revise, as appropriate, so as to mitigate cost and schedule impacts to the Project if accepted by City.
7. Implement Project accounting management using City approval letters; update Project budget with cost adjustments to the GMP or other cost categories, utilizing allowances and contingencies, as appropriate.
8. Review monthly Project invoices and pay apps.
9. Manage and oversee City-direct third-party testing services.
10. Develop a procurement strategy for City-procured FF&E. Management of any City-procured FF&E will be considered an Additional Service.
11. Manage schedule integration, delivery, and installation for all City-procured FF&E as an additional service if necessary.
12. Review and monitor progress reports documenting DE&I engagement.
13. Supervise CM/GC's preparation for Architect's punch list preparation.
14. Facilitate delivery of all systems operations and maintenance manuals to Development Committee.
15. Prepare Substantial Completion checklist for use by Project Team.
16. Support the City and Project Team in obtaining temporary or final certificate of occupancy.
17. Manage Project Team to assist Development Committee in obtaining any required NBA league office approvals for occupying and operating in the new facility.
18. Support the Development Committee and Architect, and CM/GC in achieving Final Completion.
19. Coordinate with the Development Committee's public relations/media team, which may include the City's Public Information and Marketing Office.

Post-Construction

1. Oversee CM/GC, Architect or third-party commissioning agent contract in their commissioning and acceptance of systems and equipment.
2. Provide support for opening events:
 - a. Coordinate with on-call mechanical, electrical, plumbing (MEP), and fire protection support; on-call security system technician; on-call elevator and escalator operator support; and on-call A/V system support
3. Oversee CM/GC and City-direct vendors providing City with required training of facility operations personnel including facility manager and building engineer.
4. Reconcile CM/GC's construction contract value to ensure that remaining contingencies and unspent allowances are returned to the City.
5. Coordinate with City or facility operator with respect to record document storage and retrieval systems; oversee delivery of record documents and as-builts to City.
6. Reconcile final progress reports documenting DE&I engagement with Project DE&I goals and initiatives.
7. Reconcile final progress reports documenting sustainability efforts with Project sustainability goals and initiatives.
8. Working with City and Architect, oversee CM/GC in achieving Final Completion:
 - a. Monitor Architect's closeout of the final Project punch list
 - b. Monitor CM/GC's correction and resolution of final punch list items
 - c. Facilitate resolution of open cost issues
 - d. Confirm subcontractor settlements and coordinate delivery of final lien waivers to City
 - e. Facilitate negotiation, execution and delivery of certificate of Final Completion to Development Committee
9. Facilitate final pay applications and invoices.

END

**EXHIBIT B
 COMPENSATION AND SCHEDULE OF VALUES
 PROJECT AE-0001
 OKLAHOMA CITY ARENA PROJECT CONSULTANT**

CAA ICON DRAW SCHEDULE

<u>Month</u>	<u>MONTHLY FEE</u>
Sep-24	\$288,062
Oct-24	\$192,041
Nov-24	\$192,041
Dec-24	\$192,041
Jan-25	\$192,041
Feb-25	\$304,576
Mar-25	\$304,576
Apr-25	\$304,576
May-25	\$304,576
Jun-25	\$304,576
Jul-25	\$304,576
Aug-25	\$304,576
Sep-25	\$304,576
Oct-25	\$304,576
Nov-25	\$304,576
Dec-25	\$304,576
Jan-26	\$304,576
Feb-26	\$304,576
Mar-26	\$318,191
Apr-26	\$318,191
May-26	\$318,191
Jun-26	\$318,191
Jul-26	\$318,191
Aug-26	\$318,191
Sep-26	\$318,191
Oct-26	\$318,191
Nov-26	\$318,191
Dec-26	\$318,191
Jan-27	\$318,191
Feb-27	\$318,191
Mar-27	\$318,191
Apr-27	\$318,191
May-27	\$318,191
Jun-27	\$318,191
Jul-27	\$318,191
Aug-27	\$318,191
Sep-27	\$318,191

Oct-27	\$318,191
Nov-27	\$318,191
Dec-27	\$318,191
Jan-28	\$318,191
Feb-28	\$318,191
Mar-28	\$318,191
Apr-28	\$318,191
May-28	\$318,191
Jun-28	\$318,191
Jul-28	\$318,191
Aug-28	\$290,181
Sep-28	\$290,181
Oct-28	\$290,181
Nov-28	\$386,204
TOTAL*	\$15,500,000

EXHIBIT C
ADDITIONAL SERVICES
PROJECT AE-0001
OKLAHOMA CITY ARENA PROJECT CONSULTANT

Additional Services shall only be provided upon prior written and clearly detailed direction of the Program Manager. The Consultant may be directed to perform any, all or none of the following Additional Services that may include, but not be limited to, the following:

1. Expenses of reproductions for reports, plans and specifications.
2. Provide assistance, analysis and coordination for work or services to be performed under separate contracts or performed by the City's own forces, which work or services are outside the scope of this Project, but affect this Project.
3. Except in the case of value engineering for the Project, provide analysis and services relative to future facilities, systems improvements, and equipment that are not intended to be constructed during the construction of this Project, but which relate or affect this Project.
4. Provide compensation of fees for grants, permits and applications necessary for the design and/or construction of this Project not required at the time of effective date of this contract.
5. Provide land acquisition services or other services that may be required to assist the City in acquiring property.
6. Provide services to assist the City if rezoning of property is required.
7. Provide geotechnical investigation/services utilizing engineering and testing laboratories that have annual on-call contracts with the City.
8. Any other Additional Services agreed to in writing by the Program Manager.
9. Produce miscellaneous presentation materials not originally anticipated as a part of the Project.
10. Prepare to serve or serve as expert witness in connection with any legal proceeding.
11. Provide public relations support including content development for the website, management and monitoring of social media, and development of public-facing content and documents not specifically identified in Exhibit A. (Gooden Group)
12. Contracting with "Partnering" facilitator and/or renting the facilities, or providing materials associated with the partnering meeting. (Orgmetrics)

Compensation for Additional Services: Included in the not to exceed total compensation is an allowance for Additional Services in an amount not to exceed \$500,000. This allowance is to be used and paid to the Consultant in the manner established in this Contract. The Additional Services compensation may only be used upon prior written authorization by the Program Manager. Invoices submitted for Additional Services shall represent only hours actually worked on this Project by the Consultant's employees, sub-consultants, and subcontractors and shall be accounted for separately for each Additional Service performed.

EXHIBIT E
ANTI-COLLUSION AFFIDAVIT
PROJECT AE-0001
OKLAHOMA CITY ARENA PROJECT CONSULTANT

State of Colorado)
)
County of Denver)

SS

The undersigned Consultant, of lawful age, being duly sworn, upon his/her oath, deposes and says: That the undersigned has the lawful authority to execute the within and foregoing proposal for, and on behalf of, the Consultant; that the Consultant has not, directly or indirectly, entered into any agreement, express or implied, with any other Consultant(s), having for its object the controlling of the price or amount of this Contract, the limiting of the services of the Consultant, the parceling or farming out to any Consultant(s) or other persons, of any part of this Contract or any part of the subject matter of this Contract, or of the profits thereof.

The Consultant further states that the Consultant has not been a party to any collusion: among the Consultant in restraint of freedom of competition, by any agreement to Contract at a fixed price or to refrain from bidding; or with any City official, City employee or City agent as to the quantity, quality, or price in the prospective Contract, or any other terms of the said prospective Contract; or in any discussions between the Consultant or City official, City employee or City agent concerning the exchange or money or other thing of value for special consideration in the letting of a Contract. The Consultant states that it has not paid, given or donated or agreed to pay, give or donate to any City official, officer or employee of the City or awarding agency, any money or other thing of value, either directly or indirectly, in the procuring of the award of this Contract.

Printed name of the Consultant: ICON VENUE GROUP, LLC

Signature of executing individual: 

Title: General Counsel

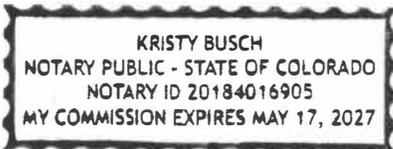
5075 S. Syracuse St., Denver, CO 80237
Address of the Consultant (Please Print) Zip Code

303.557.3700
(A.C.) Tel. Number (and FAX No., if any)

Signed and sworn to before me on this 18th day of September, 2024, by Raul Abad.

May 17, 2027 20184016905
Commission Expiration and Number:


Notary Public



(49 Okla. Stat. 1985 §119)

EXHIBIT F
LIST OF CONSULTANT'S SUB-CONSULTANTS OR SUB-CONTRACTORS
PROJECT AE-0001
OKLAHOMA CITY ARENA PROJECT CONSULTANT

ADG Blatt, LLC
The Gooden Group (Additional Service)
Orgmetrics (Additional Service)

EXHIBIT G
CONSULTANT ORG CHART AND TIME COMMITMENT
PROJECT AE-0001
OKLAHOMA CITY ARENA PROJECT CONSULTANT

- Phase I – Project Activation from the Effective Date to the earlier of: (a) Principal In Charge’s joining the Project full-time or (b) end of concept design:
 - Executive Oversight: Dan Vaillant (CAA ICON) and Jason Cotton (ADG Blatt)
 1. Interim Project Executive: Brent Beardslee (CAA ICON)
 2. Senior Project Director: Chris Scott (CAA ICON)
 3. Senior Project Director: Rachel Quinn (CAA ICON)
 4. Project Manager: ADG Blatt*
 5. Project Coordinator: CAA ICON

Except for Executive Oversight, the personnel listed below for Phase II are dedicated full-time to this Project as follows:

- Phase II – Project Design from conclusion of Phase I to start of construction:
 - Executive Oversight: Dan Vaillant (CAA ICON) and Jason Cotton (ADG Blatt)
 1. Principal In Charge: Adam Goodwin (CAA ICON)
 2. Project Executive: Chris Scott (CAA ICON)
 3. Senior Project Director: Rachel Quinn (CAA ICON)
 4. Project Controls Manager: CAA ICON
 5. Project Manager: ADG Blatt*
 6. Project Coordinator: CAA ICON

Except for Executive Oversight, the personnel listed below for Phase III are dedicated full-time to this Project as follows:

- Phase III – Project Construction from the conclusion of Phase II to November 2028:
 - Executive Oversight: Dan Vaillant (CAA ICON) and Jason Cotton (ADG Blatt)
 1. Principal In Charge: Adam Goodwin (CAA ICON)
 2. Project Executive: Chris Scott (CAA ICON)
 3. Senior Project Director: Rachel Quinn (CAA ICON)
 4. Project Director: CAA ICON
 5. Project Controls Manager: CAA ICON
 6. Project Manager: ADG Blatt*
 7. Project Coordinator: CAA ICON
 8. Assistant Project Manager: CAA ICON

*Project Manager ADG Blatt means an individual or individuals under ADG Blatt providing services equivalent to a full time member on this Project, which will include Ryan Smith.



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
09/09/2024

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 have ADDITIONAL INSURED provisions or 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 Aon Risk Insurance Services West, Inc. Los Angeles CA Office 707 Wilshire Boulevard Suite 2600 Los Angeles CA 90017-0460 USA	CONTACT NAME: PHONE (A/C. No. Ext): (866) 283-7122 FAX (A/C. No.): (800) 363-0105	
	E-MAIL ADDRESS:	
INSURED ICON Venue Group, LLC, dba CAA ICON 5075 S. Syracuse St. Suite 700 Denver CO 80237 USA	INSURER(S) AFFORDING COVERAGE	
	INSURER A: Underwriters at Lloyds	NAIC # 32727
	INSURER B: American Zurich Ins Co	40142
	INSURER C: Navigators Insurance Co	42307
	INSURER D:	
	INSURER E:	

Holder Identifier :

COVERAGES **CERTIFICATE NUMBER:** 570108054654 **REVISION NUMBER:**

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. **Limits shown are as requested**

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
C	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:			LA21NCP021578-03	02/15/2024	02/15/2025	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 Policy Term Cap \$10,000,000
C	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			LA21NCP021578-03	02/15/2024	02/15/2025	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION						EACH OCCURRENCE AGGREGATE
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			WC144942800	12/06/2023	12/06/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE-EA EMPLOYEE \$1,000,000 E.L. DISEASE-POLICY LIMIT \$1,000,000
A	Architects & Engineers Professional			B0621PICON005923 Sports Mgmt Prof Liab.	08/01/2023	09/27/2024	Aggregate Limit \$2,000,000

Certificate No : 570108054654

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

The City of Oklahoma City a Municipal Corporation, the Oklahoma City Public Property Authority, a City beneficiary trust and its participating trusts and the Oklahoma City Thunder are included as Additional Insured in accordance with the policy provisions of the General Liability and Automobile Liability policies. General Liability policy evidenced herein is Primary to other insurance available to Additional Insured, but only in accordance with the policy's provisions. It is hereby agreed that hired Auto physical damage coverage is covered for \$100,000 ACV or cost to repair, whichever is less, subject to the deductible listed on the policy declarations.

CERTIFICATE HOLDER**CANCELLATION**

The City of Oklahoma City a Municipal Corporation, the Oklahoma City Public Property Authority, a City beneficiary trust 200 N. Walker Oklahoma City OK 73102 USA	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 <i>Aon Risk Insurance Services West, Inc.</i>





ADDITIONAL REMARKS SCHEDULE

AGENCY Aon Risk Insurance Services West, Inc.		NAMED INSURED ICON Venue Group, LLC, dba CAA ICON	
POLICY NUMBER See Certificate Number: 570108054654			
CARRIER See Certificate Number: 570108054654	NAIC CODE	EFFECTIVE DATE:	

ADDITIONAL REMARKS

**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance**

Workers Compensation Carriers

Hartford Accident & Indemnity Company - NY, TN

Sentinel Insurance Company- GA

Hartford Fire Insurance Co. - PA

Hartford Casualty Insurance Co - CA, IL

Twin City Fire Insurance Company - OK, NE, WA, MI, KS, RI, NJ, SC, VA, MN, OH, FL, NC, MA, WI, NM, DC, UT, IN, CT, NV, MD, OR, ND, TX, WY, MO, AL, LA

Trumbull Ins. Co. - AZ, CO



ADDITIONAL REMARKS SCHEDULE

AGENCY Aon Risk Insurance Services West, Inc.		NAMED INSURED ICON Venue Group, LLC, dba CAA ICON	
POLICY NUMBER See Certificate Number: 570108054654		EFFECTIVE DATE:	
CARRIER See Certificate Number: 570108054654	NAIC CODE		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 25 **FORM TITLE:** Certificate of Liability Insurance

Professional Liability Excess Layers

Policy # B0621PICON006023, 8/1/2023 - 9/27/2024, \$3,000,000 xs \$2,000,000, Underwriters at Lloyd's (Non-Admitted), Non-Admitted, Ryan Turner Specialty
 Policy # B1526PSDEF2301141, 8/1/2023 - 9/27/2024, \$5,000,000 xs \$5,000,000, Underwriter split: Market 50%, Beazley 20%, and Convex 30%.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

POLARIS A – GENERAL LIABILITY EXTENSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

The following Schedule lists the coverage extensions provided by this endorsement. The descriptions, other than limit amounts, provided in the Schedule are intended for informational purposes only and do not form a part of the policy. Refer to the individual provisions to determine the extent of your coverage. In the event that no limit is shown in the Schedule, the applicable limit in the General Liability Coverage Part Declarations, or the policy to which this endorsement is attached, will apply.

SCHEDULE

COVERAGE	LIMITS/DESCRIPTION
Additional Insured - Broad Form Vendors	Automatically includes vendors when required by a written contract
Additional Insured - by Contract, Agreement or Permit relating to: <ul style="list-style-type: none"> ➤ Work performed by you ➤ Premises you own, rent, lease or occupy ➤ Equipment you lease 	Automatically includes certain entities with whom the Named Insured contracts when required by a written contract
Aggregate Limit - Per Location	Provides per location aggregates
Blanket Waiver of Subrogation	Waives Insurer's right of subrogation if Named Insured has waived such rights in a written contract
Bodily Injury Redefined	Includes resultant mental anguish in the definition of "bodily injury"
Broadened Named Insured	Entities in which the Named Insured holds a majority interest granted short-term Named Insured status
Broadened Property Damage - <ul style="list-style-type: none"> ➤ Borrowed Equipment Limit ➤ Customers' Goods Limit ➤ Use of Elevators Limit 	\$ 25,000 per "occurrence" \$ 25,000 per "occurrence" \$ 25,000 per "occurrence"
Broadened Damage To Premises Rented To You	Extends broadened "all risk" property damage to rented premises beyond seven days.
Coverage Territory	Extends coverage territory to worldwide for suites brought in the U.S., its possessions or territories, Canada or Puerto Rico.
Duties in Event of Occurrence, Claim or Suit	Provides more liberal claim reporting condition
Expected or Intended Injury Exclusion Modified	Exception extended to cover property damage
Incidental Medical Malpractice	Medical professional as insureds
Medical Payments	Extends the time within which expenses are incurred \$10,000
Newly Acquired or Formed Organizations	Provides automatic coverage for newly acquired organizations which do not have other insurance coverage until the end of the policy period
Non-Owned Aircraft Non-Owned Watercraft	Exception to the Aircraft and Watercraft exclusion extended to provide additional coverage
Personal and Advertising Injury	Adds limited coverage for discrimination
Product Recall Expense	Product Recall Aggregate Limit \$50,000 Each Product Recall Limit \$25,000 Product Recall Deductible
Supplementary Payments Increased Limits	Cost of Bail Bonds/Appeals Bonds – Up to the Limit of Insurance, subject to a \$1,000,000 aggregate Reasonable Expenses Incurred Limit \$1,500 a day

I. ADDITIONAL INSURED - BROAD FORM VENDORS

- A. Section II - Who Is An Insured is amended to include as an additional insured any person or organization referred to below as vendor to whom you agreed in a written contract or written agreement to provide insurance, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:

This provision does not apply to:

1. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
2. Any express warranty unauthorized by you;
3. Any physical or chemical change in the product made intentionally by the vendor;
4. Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
5. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
6. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
7. Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor;
8. "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
 - a. The exceptions contained in Subparagraphs 4. or 6. above; or
 - b. Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products; or
9. Any person or organization if the "products-completed operations hazard" is excluded either by the provisions of the Coverage Form or by endorsement.

B. This insurance does not apply to:

1. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
2. Any express warranty unauthorized by you;
3. Any physical or chemical change in the product made intentionally by the vendor;
4. Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
5. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
6. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
7. Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor;
8. "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
 - a. The exceptions contained in Subparagraphs 4. or 6.; or

- b. Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.
- 9. Any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.
- C. Limits of Insurance applicable to the additional insured are the lesser of i) those specified in the aforementioned contract or agreement or ii) those shown in the Declarations and fix the most we will pay regardless of the number of:
 - 1. Insureds;
 - 2. Claims made or "suits" brought; or
 - 3. Persons or organizations making claims or bringing "suits".

These Limits of Insurance are included in and not in addition to the Limits of Insurance shown in the Declarations.

II. ADDITIONAL INSURED - CONTRACT, AGREEMENT OR PERMIT

- A. Section II - Who Is An Insured is amended to include as an additional insured any person or organization to whom you agreed in a written contract, written agreement or permit to provide insurance such as is afforded under this Coverage Part, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:
 - 1. In the performance of "your work" for the additional insured at the location designated in the contract, agreement or permit;
 - 2. In the maintenance, operation or use of equipment leased to you by such person or organization; or
 - 3. In connection with premises you own, rent, lease or occupy.

This insurance applies on a primary basis or on a primary and non-contributory basis if required in the aforementioned contract, agreement or permit.

- B. The insurance provided to the additional insured herein is limited. This insurance does not apply:
 - 1. Unless:
 - a. The written contract, written agreement or permit is currently in effect or becomes effective during the term of this policy; and
 - b. The written contract or written agreement was executed or permit issued prior to the time that the "bodily injury", "property damage" or "personal and advertising injury" commenced;
 - 2. To any person or organization included as an insured under the Additional Insured - Broad Form Vendors provision of this endorsement;
 - 3. To any person or organization included as an insured by an endorsement issued by us and made part of this Coverage Part;
 - 4. To any person or organization if the "bodily injury", "property damage", or "personal and advertising injury" arises out of the rendering of or failure to render any professional architectural, engineering or surveying services by or for you including:
 - a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - b. Supervisory, inspection, architectural or engineering activities;
 - 5. To any:
 - a. Lessor of equipment after the equipment lease expires;
 - b. Owners or other interests from whom land has been leased; or
 - c. Managers or lessors of premises if:
 - (1) The "occurrence" takes place after you cease to be a tenant in that premises; or
 - (2) The "bodily injury", "property damage", "personal and advertising injury" arises out of structural alterations, new construction or demolition operations performed by or on behalf of the manager or lessor; or
 - 6. To "bodily injury", or "property damage" occurring after:
 - a. All work on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured at the site of the covered operations has been completed; or

- b. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as part of the same project.
- C. Limits of Insurance applicable to the additional insured are the lesser of i) those specified in the aforementioned contract, agreement or permit or ii) those shown in the Declarations and fix the most we will pay regardless of the number of:
 - 1. Insureds;
 - 2. Claims made or "suits" brought; or
 - 3. Persons or organizations making claims or bringing "suits".

These Limits of Insurance are included in and not in addition to the Limits of Insurance shown in the Declarations.

III. AGGREGATE LIMIT PER LOCATION

- A. Under Section III - Limits Of Insurance, the General Aggregate Limit applies separately to each of your "locations" owned by or rented or leased to you.
- B. The following is added to Section V - Definitions:

"Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.

IV. BLANKET WAIVER OF SUBROGATION

The following is added to the **Transfer Of Rights Of Recovery Against Others To Us** condition in Section IV - Commercial General Liability Conditions:

We will waive any right of recovery we may have against any person or organization because of payments we make for injury or damage arising out of your ongoing operations done under a written contract or agreement with that person or organization and included in "your work" or the "products-completed operations hazard". This waiver applies only to persons or organizations with which you have a written contract, executed prior to the "bodily injury" or "property damage" that requires you to waive your rights of recovery.

V. BODILY INJURY REDEFINED - MENTAL ANGUISH

The "bodily injury" definition in Section V - Definitions is replaced by the following:

"Bodily injury" means bodily injury, sickness, or disease sustained by a person. This includes mental anguish resulting from bodily injury, sickness or disease.

VI. BROADENED NAMED INSURED

Section II - Who Is An Insured is amended to include as an insured the following:

Any organization which is a legally formed entity and in which you own a financial interest of more than fifty percent (50%) of the interest entitled to vote generally in the election of the governing body of such organization will be a Named Insured on the effective date of this endorsement until the earlier of:

- A. The 180th day after the issuance of this endorsement; or
- B. The end of the policy period,

provided there is no other similar insurance available to that organization. The insurance afforded herein does not apply to any entity which is also an insured under another policy or would be an insured under such policy but for its termination or the exhaustion of its limits of insurance.

VII. BROADENED PROPERTY DAMAGE - RENTED PREMISES, BORROWED EQUIPMENT, CUSTOMERS' GOODS AND USE OF ELEVATORS

- A. Section I - Coverages, Coverage A - Bodily Injury And Property Damage Liability, paragraph 2. **Exclusions**, exclusion j. **Damage To Property** is replaced by the following:

- j. **Damage To Property**

- "Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
 - (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
 - (3) Property loaned to you;
 - (4) Personal property in the care, custody or control of the insured;
 - (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or

(6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III - Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4) and (5) of this exclusion do not apply to "property damage" to "customers' goods" while on your premises, subject to the Broadened Property Damage - Customers' Goods Limit shown in the **SCHEDULE**.

Paragraphs (3), (4) and (5) of this exclusion do not apply to "property damage" arising from the use of elevators at premises you own, rent, lease or occupy, subject to the Use of Elevators Limit for the Broadened Property Damage shown in the **SCHEDULE**.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (4) does not apply to "property damage" to equipment you borrow while at a job site and provided it is not being used by anyone to perform operations at the time of loss, subject to the Borrowed Equipment Limit for the Broadened Property Damage shown in the **SCHEDULE**.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

B. The following is added to Section V - Definitions:

"Customers' goods means goods of your customers on your premises for the purposes of being:

1. Repaired; or
2. Used in your manufacturing process.

C. The insurance afforded by this provision is excess over any other valid and collectible property insurance (including any deductible) available to the insured whether such insurance is primary, excess, contingent or on any other basis. We will make payments in accordance with the Excess Insurance provision of the Other Insurance condition in the Commercial General Liability Conditions.

VIII. **COVERAGE TERRITORY - WORLDWIDE**

The "coverage territory" definition in Section V - Definitions is replaced by the following:

"Coverage territory" means anywhere in the world. However, the insured's responsibility to pay damages must be determined in a settlement to which we agree or in a "suit" on the merits brought within the United States of America (including its territories and possessions), Puerto Rico or Canada.

IX. **DUTIES IN THE EVENT OF OCCURRENCE, OFFENSE, CLAIM OR SUIT**

The following is added to Section IV - Conditions, Duties In The Event Of Occurrence, Claim Or Suit:

A. The requirements that you must

1. Notify us, as soon as practicable, of an "occurrence", offense, claim or "suit"; and
2. Send us documents concerning a claim or "suit"

apply only when such "occurrence", offense, claim or "suit" is known to:

- a. You, if you are an individual;
- b. A partner, if you are a partnership;
- c. An executive officer of the corporation or insurance manager, if you are a corporation; or
- d. A manager, if you are a limited liability company.

B. The requirement that you must notify us as soon as practicable of an "occurrence" or an offense that may result in a claim does not apply if you report an "occurrence" to your workers compensation insurer which later develops into a liability claim for which coverage is provided by this policy. However, as soon as you have definite knowledge that the particular "occurrence" is a liability claim rather than a workers' compensation claim, you must comply with the Duties In The Event Of Occurrence, Offense, Claim Or Suit condition in Section IV - Commercial General Liability Conditions.

X. **EXPECTED OR INTENDED INJURY (PROPERTY DAMAGE)**

Section I - Coverages, Coverage A - Bodily Injury And Property Damage Liability, paragraph 2. **Exclusions**, exclusion a. **Expected Or Intended Injury** is replaced by the following:

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

XI. INCIDENTAL MEDICAL MALPRACTICE - EMPLOYED PHYSICIANS, NURSES, EMT'S AND PARAMEDICS

A. Section **II - Who Is An Insured**, paragraph **2.a.(1)(d)** is replaced by the following:

(d) Arising out of his or her providing or failing to provide professional health care services; provided. However that this does not apply to a physician, dentist, nurse, emergency medical technician or paramedic employed by you if you are not engaged in the business or occupation of providing medical, paramedical, surgical, dental, x-ray or nursing services.

B. The insurance afforded by this provision is excess over any other valid and collectible insurance whether such insurance is primary, excess, contingent or on any other basis. We will make payments in accordance with the Excess Insurance provision of the Other Insurance condition in the Commercial General Liability Conditions.

XII. MEDICAL PAYMENTS - INCREASED LIMITS AND TIME PERIOD

A. This provision only applies if a limit is shown for Medical Payments in the **SCHEDULE**.

B. Section **I - Coverages**, Coverage **C - Medical Payments**, paragraph **1. Insuring Agreement**, item **(b)** is replaced by the following:

(b) The expenses are incurred and reported to us within four years of the date of the accident; and

C. The Medical Payments Limit is shown in the **SCHEDULE**.

XIII. NEWLY FORMED OR ACQUIRED ORGANIZATIONS

A. Section **II - Who Is An Insured**, paragraph **3.** is replaced by the following:

3. Any organization you newly acquire or legally form, other than a partnership or joint venture, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

a. Coverage under this provision is afforded only until the end of the policy period during which you acquire or form the organization;

b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and

c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

B. The last paragraph of Section **II - Who Is An Insured** is replaced by the following:

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations. Notwithstanding the foregoing, this does not apply to any organization you newly acquire or legally form and to which paragraph **3.** of Section **II - Who Is An Insured** applies.

XIV. NON-OWNED AIRCRAFT AND WATERCRAFT

A. Section **I - Coverages**, Coverage **A - Bodily Injury And Property Damage Liability**, paragraph **2. Exclusions**, exclusion **g. Aircraft, Auto Or Watercraft** is replaced by the following:

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

(1) A watercraft while ashore on premises you own or rent;

(2) A watercraft you do not own that is:

(a) Less than 75 feet long; and

(b) Not being used to carry persons or property for a charge;

(3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;

(4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or

(5) "Bodily injury" or "property damage" arising out of:

(a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or

(b) The operation of any of the machinery or equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment".

(6) An aircraft that is:

(a) Hired, chartered or loaned with a paid crew; and

(b) Not owned by any insured.

B. Section II - Who Is An Insured is amended to include as an insured for any watercraft that is covered by this policy, any person who, with your expressed or implied consent, either uses or is responsible for the use of a watercraft. However, no person or organization is an insured with respect to:

1. "Bodily injury" to a co-"employee" of the person operating the watercraft; or

2. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

C. The insurance afforded by this provision is excess over any other valid and collectible insurance (including any deductible or Self Insured Retention) available to the insured, whether such insurance is primary, excess, contingent or on any other basis. We will make payments in accordance with the Excess Insurance provision of the Other Insurance condition in the Commercial General Liability Conditions.

XV. PERSONAL AND ADVERTISING INJURY

A. The following is added to the "personal and advertising injury" definition in Section V - Definitions:

h. Discrimination because of race, color, creed, national origin, age, sex or physical disability, where insurance therefore is not prohibited by law, but only if such discrimination is:

(1) Not done intentionally by or at the direction of:

(a) The insured; or

(b) Any executive officer, director, stockholder, partner or member of the insured staff; and

(2) Not directly or indirectly related to the employment, prospective employment or termination of employment of any person or persons by any insured.

B. The insurance afforded under this provision does not apply to fines or penalties, or that portion of any award or judgment caused by trebling or multiplication of actual damages under state or federal law.

C. This provision does not apply if Coverage B - Personal And Advertising Injury Liability is otherwise excluded under this Coverage Form.

XVI. PRODUCT RECALL EXPENSE

A. Product Recall Insuring Agreement

We will reimburse you for covered "product recall expense" that you paid in excess of the Product Recall Deductible shown in the **SCHEDULE**.

1. A "product recall" is covered if:

a. The "product recall" is made necessary because:

(1) You make a reasonable and good faith determination; or

(2) Any governmental body makes a ruling

that the use or consumption of "your product" has a substantial probability of causing "bodily injury" or "property damage" solely because of a known or suspected defect, inadequacy or dangerous condition in "your product"; or

b. The "product recall" is made necessary because of "product tampering".

2. This insurance applies to a "product recall" only if:

a. The "product recall" relates solely to a recall of "your product" in the United States of America (including its territories and possessions), Puerto Rico and Canada; and

b. Prior to the inception date or prior to the time "your product" left your control, the insured had no knowledge of any actual, alleged, suspected or threatened defect, inadequacy or dangerous condition in "your product" or any resulting "claim", "suit" or governmental proceeding whether or not notice of any such "product recall", "claim" or "suit" was furnished to any other insurer.

3. This insurance applies only to a "product recall" that commences during the policy period.

B. Exclusions

1. Section **I** - Coverages, Coverage **A** - Bodily Injury And Property Damage Liability, paragraph **2. Exclusions**, item **n. Recall Of Products, Work Or Impaired Property** does not apply to the coverage provided under this provision.
 2. The following exclusions in Section **I** - Coverages, Coverage **A** - Bodily Injury And Property Damage Liability, paragraph **2. Exclusions** apply to coverage under this provision:
 - a. Exclusion **b. Contractual Liability**; and
 - b. Exclusion **f. Pollution**.
 3. Further, this insurance does not apply to "product recall" arising out of, related to or resulting from any of the following:
 - a. Failure of "your product" to accomplish its intended purpose;
 - b. Deterioration, wear and tear or decomposition of "your product";
 - c. Violation of any government regulation;
 - d. "Your product" contains or has come into contact with a hazardous substance or material banned by any governmental entity;
 - e. Dishonesty by You, Your Officers and Employees;
 - f. Products Recalled between Insured Entities You Control within Your Organization;
 - g. Inclusion in your product of any of the following:
 - (1) Asbestos;
 - (2) Lead; or
 - (3) Silica;
 - h. Expiration of the shelf life of "your product"; or
 - i. Third party damages, fines or penalties.
- C.** With respect to the coverage provided under this provision, the following are added to Section **V** - Definitions:
1. "Product recall" means the withdrawal, recall, inspection, removal or disposal of:
 - a. "Your product"; or
 - b. Any property of which "your product" forms a part from the market or from use by any person or organization.
 2. "Product recall expense" means:
 - a. The following necessary and reasonable expenses you incur exclusively for the purpose of recalling "your product":
 - (1) For communications, including radio or television announcements or printed advertisements including stationery, envelopes and postage;
 - (2) For shipping the recalled products from any purchaser, distributor or user to the place or places designated by you;
 - (3) For remuneration paid to your regular "employees" for necessary overtime;
 - (4) For hiring additional persons, other than your regular "employees";
 - (5) Incurred by "employees", including transportation and accommodations;
 - (6) To rent additional warehouse or storage space; or
 - (7) For disposal of "your products", but only to the extent that specific methods of destruction other than those employed for trash discarding or disposal are required to avoid "bodily injury" or "property damage" as a result of such disposal, but "product recall expenses" does not include costs of regaining your market share, goodwill, revenue or profit.
 - b. "Product recall expense" does not include any expenses resulting from:
 - (1) Failure of any product to accomplish its intended purpose;
 - (2) Breach of warranties of fitness, quality, durability or performance;
 - (3) Loss of customer approval, or any cost incurred to regain customer approval;
 - (4) Redistribution or replacement of "your product" which has been recalled by like products or substitutes;
 - (5) Caprice or whim of the insured;
 - (6) A condition likely to cause loss of which any insured knew or had reason to know at the inception of this insurance; and

(7) Recall of "your products" that have no known or suspected defect solely because of a known suspected defect in another of "your products" has been found.

3. "Product tampering" means any actual, alleged or threatened, intentional, or malicious alteration or contamination of "your product", whether or not by an employee that renders it unfit or dangerous for use or consumption, or conveys that impression to the public.

XVII. SUPPLEMENTARY PAYMENTS - INCREASED LIMITS

Section I - Coverages, Supplementary Payments - Coverages **A** And **B**, paragraph 1. is replaced by the following:

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:
 - a. All expenses we incur.
 - b. For cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies up to the Bodily Injury Limit of Insurance, subject to an annual aggregate of \$1,000,000. We do not have to furnish these bonds.
 - c. The cost of bonds to release attachments up to the applicable Per Occurrence Limit of Insurance for Coverage **A** or Coverage **B**, whichever applies to the claim, subject to an annual aggregate of \$1,000,000, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
 - d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to the Reasonable Expenses Incurred Limit shown in the **SCHEDULE** because of time off from work.
 - e. All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
 - f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
 - g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.