

## **MASTER ON-CALL SUSTAINABILITY AND ENERGY SERVICES AGREEMENT**

**THIS MASTER ON-CALL SUSTAINABILITY AND ENERGY SERVICES AGREEMENT** (the “Agreement”) is made between the **CITY AND COUNTY OF DENVER**, a home rule and municipal corporation of the State of Colorado, (the “City”) and **ENERGETICS CONSULTING ENGINEERS, LLC**, a Colorado limited liability company, whose address is 6140 South Gun Club Road, Suite K6-121, Aurora, Colorado 80016 (the “Contractor”), jointly (“the Parties”).

**WHEREAS**, the City is seeking to act with urgency to proactively mitigate climate change by advancing science-based strategies to reduce greenhouse gas emissions on a scale and timeline that align with the recommendations from the Intergovernmental Panel on Climate Change, cultivate resiliency in the face of potential climate change-related emergencies, secure an economically, socially, and environmentally sustainable city for generations to come; and ensure that the setting of goals and metrics and monitoring of results considers equity; and

**WHEREAS**, the City shall procure the professional services of one or more energy, sustainability, or resiliency consulting firms for on-call services to support the Office of Climate Action, Sustainability, and Resiliency in analysis, design, and implementation of programs on issues such as existing and new building decarbonization, deployment of heat pumps, distributed energy resources, vehicle electrification, resilient landscape design, ecosystem services, efficient water use, and zero waste; and

**WHEREAS**, the Contractor hereby binds itself, subject to the terms and provisions of this Agreement, to perform all the terms and conditions of this Agreement.

**NOW THEREFORE**, in consideration of the promises and the mutual benefits from the covenants hereinafter set forth, the Contractor and the City agree as follows:

**1. COORDINATION AND LIAISON:** The Contractor shall fully coordinate all services under the Agreement with the Executive Director of Climate Action, Sustainability and Resiliency (“Executive Director”) or, the Executive Director’s Designee.

**2. SERVICES TO BE PERFORMED:**

a. The Contractor agrees to perform, as assigned, services under this Agreement on an “on-call” or “as needed” basis. The Contractor shall diligently and skillfully perform the services as described in the **Scope of Work** in **Exhibit A**, which is attached hereto and incorporated herein by reference (the “**Work**”). As prescribed in issued notices specifying the Work to be performed (“**Work Order**”), the Contractor shall promptly initiate and complete the specifically assigned services during the specified time periods (“**Work Projects**”).

b. The Contractor is ready, willing, and able to provide the services required by this Agreement.

c. The Contractor shall faithfully perform the services in accordance with the standards of care, skill, training, diligence, and judgment provided by highly competent individuals performing services of a similar nature to those described in the Agreement and in accordance with the terms of the Agreement.

**3. TERM:** The Agreement will commence **upon the mutual execution of the Parties (“Effective Date”)** and will expire on **three years after the Effective Date** (the “Term”). The term of this Agreement may be extended by the City under the same terms and conditions by a written amendment to this Agreement. Subject to the Executive Director’s prior written authorization, the Contractor shall complete any work in progress as of the expiration date and the Term of the Agreement will extend until the work is completed or earlier terminated by the Executive Director.

**4. PROJECT AWARDS:**

a. To initiate work pursuant to this Agreement, the City may award work orders by a mini-bid process for competitive bidding when warranted. Alternatively, work may be awarded as a direct selection at the City’s discretion. The City shall seek proposals from the Contractor or a group of Contractors by issuing a Request for Work using the template provided in **Exhibit B**.

b. In response to the Request for Work or direct selection, within the time period and manner requested by the Executive Director or the Executive Director’s Designee, Contractor shall provide a response with all elements set forth in the Request for Work.

c. The City will authorize work by issuance of a Work Order. Contractor shall not commence any work until it receives the Work Order authorizing the performance of any services. The City will not encumber funds until it issues a Work Order. Notwithstanding any other term or condition of this Agreement, nothing in this Agreement guarantees Contractor any minimum amount of work.

## 5. COMPENSATION AND PAYMENT:

### a. City Expenditures:

(1) **Fee Schedule/Rates:** The City shall pay and the Contractor shall accept as the sole compensation for services rendered and costs incurred under the Agreement and an applicable Work Order the amounts and rates set forth in **Exhibit C**. Amounts billed may not exceed the amounts set forth in the Work Order and **Exhibit C**.

(2) **Reimbursable Expenses:** Reimbursable expenses are only permitted to the extent described in each Work Order and **Exhibit C**.

(3) **Invoicing:** The Contractor shall provide the City with a monthly invoice with a level of detail reasonably acceptable to the City including all supporting documentation reasonably required by the City. The City's Prompt Payment Ordinance, §§ 20-107 to 20-118, D.R.M.C. applies to invoicing and payment under this Agreement.

### b. Maximum Contract Amount:

(1) The Maximum Contract Amount to be paid by the City to the Contractor shall in no event exceed the sum of **ONE MILLION FIVE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$1,500,000.00)**, unless this Agreement is modified to increase said amount by a duly authorized and written amendment to this Agreement executed by the Parties in the same manner as this Agreement. The Maximum Contract Amount stated herein is not intended, and shall not be construed, as a promise or guarantee to the Contractor that Work Orders or amended Work Orders with Work Project Amounts totaling or approximating the Maximum Contract Amount will be issued to the Contractor. Issued Work Orders and amended Work Orders shall not, individually or cumulatively, authorize the performance of Work for which the Work Project Amount(s) exceed the Maximum Contract Amount. It shall be the responsibility of the Contractor to verify that the total Work Project Amount(s) do not exceed the Maximum Contract Amount of this Agreement. The City is not obligated to execute an Agreement or any amendments

for any further services, including any services performed by the Contractor beyond that specifically described in the Exhibits. Any services performed beyond those in the Exhibits are performed at the Contractor's risk and without authorization under the Agreement.

(2) The City's payment obligation, whether direct or contingent, extends only to funds appropriated annually by the Denver City Council, paid into the Treasury of the City, and encumbered for the purpose of the Agreement. The City does not by this Agreement irrevocably pledge present cash reserves for payment or performance in future fiscal years. The Agreement does not and is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.

**6. STATUS OF CONTRACTOR:** The Contractor is an independent contractor retained to perform professional or technical services for limited periods of time. Neither the Contractor nor any of its employees are employees or Directors of the City under Chapter 18 of the Denver Revised Municipal Code, or for any purpose whatsoever.

**7. TERMINATION:**

a. The City has the right to terminate the Agreement with cause upon written notice effective immediately, and without cause upon thirty (30) days prior written notice to the Contractor. However, nothing gives the Contractor the right to perform services under the Agreement beyond the time when its services become unsatisfactory to the Executive Director.

b. Notwithstanding the preceding paragraph, the City may terminate the Agreement if the Contractor or any of its officers or employees are convicted, plead *nolo contendere*, enter into a formal agreement in which they admit guilt, enter a plea of guilty or otherwise admit culpability to criminal offenses of bribery, kickbacks, collusive bidding, bid-rigging, antitrust, fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature in connection with Contractor's business. Termination for the reasons stated in this paragraph is effective upon receipt of notice.

c. Upon termination of the Agreement, with or without cause, the Contractor shall have no claim against the City by reason of, or arising out of, incidental or relating to termination, except for compensation for work duly requested and satisfactorily performed as described in the Agreement.

d. If the Agreement is terminated, the City is entitled to and will take possession of all materials, equipment, tools and facilities it owns that are in the Contractor's possession, custody, or control by whatever method the City deems expedient. The Contractor shall deliver all documents in any form that were prepared under the Agreement and all other items, materials and documents that have been paid for by the City to the City. These documents and materials are the property of the City. The Contractor shall mark all copies of work product that are incomplete at the time of termination "DRAFT-INCOMPLETE".

**8. EXAMINATION OF RECORDS AND AUDITS:** Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access, and the right to examine, copy and retain copies, at City's election in paper or electronic form, any pertinent books, documents, papers and records related to Contractor's performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. Contractor shall cooperate with City representatives and City representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of three (3) years after the final payment under the Agreement or expiration of the applicable statute of limitations. When conducting an audit of this Agreement, the City Auditor shall be subject to government auditing standards issued by the United States Government Accountability Office by the Comptroller General of the United States, including with respect to disclosure of information acquired during the course of an audit. No examination of records and audits pursuant to this paragraph shall require Contractor to make disclosures in violation of state or federal privacy laws. Contractor shall at all times comply with D.R.M.C. 20-276.

**9. WHEN RIGHTS AND REMEDIES NOT WAIVED:** In no event will any payment or other action by the City constitute or be construed to be a waiver by the City of any breach of covenant or default that may then exist on the part of the Contractor. No payment, other action, or inaction by the City when any breach or default exists will impair or prejudice any right or remedy available to it with respect to any breach or default. No assent, expressed or implied, to any breach of any term of the Agreement constitutes a waiver of any other breach.

**10. INSURANCE:**

**a. General Conditions:** Contractor agrees to secure, at or before the time of

execution of this Agreement, the following insurance covering all operations, goods or services provided pursuant to this Agreement. Contractor shall keep the required insurance coverage in force at all times during the term of the Agreement, including any extension thereof, and during any warranty period. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as “A-VIII” or better. Each policy shall require notification to the City in the event any of the required policies be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the parties identified in the Notices section of this Agreement. Such notice shall reference the City contract number listed on the signature page of this Agreement. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, Contractor shall provide written notice of cancellation, non-renewal and any reduction in coverage to the parties identified in the Notices section by certified mail, return receipt requested within three (3) business days of such notice by its insurer(s) and referencing the City’s contract number. Contractor shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Contractor. The Contractor shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

**b. Proof of Insurance:** Contractor may not commence services or work relating to this Agreement prior to placement of coverages required under this Agreement. Contractor certifies that the certificate of insurance attached as **Exhibit D**, preferably an ACORD form, complies with all insurance requirements of this Agreement. The City requests that the City’s contract number be referenced on the certificate of insurance. The City’s acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of Contractor’s breach of this Agreement or of any of the City’s rights or remedies under this Agreement. The City’s Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements.

**c. Additional Insureds:** For Commercial General Liability, Business Auto

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Liability, and Excess Liability/Umbrella (if required), Contractor and subconsultant's insurer(s) shall include the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

**d. Waiver of Subrogation:** For all coverages required under this Agreement, Contractor's insurer shall waive subrogation rights against the City.

**e. Subcontractors and Subconsultants:** Contractor shall confirm and document that all subcontractors and subconsultants (including independent contractors, suppliers or other entities providing goods or services required by this Agreement) procure and maintain coverage as approved by the Contractor and appropriate to their respective primary business risks considering the nature and scope of services provided.

**f. Workers' Compensation and Employer's Liability Insurance:** Contractor shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims. OR

**g. Commercial General Liability:** Contractor shall maintain a Commercial General Liability insurance policy with minimum limits of \$1,000,000 for each bodily injury and property damage occurrence, \$2,000,000 products and completed operations aggregate (if applicable), and \$2,000,000 policy aggregate.

**h. Business Automobile Liability:** Contractor shall maintain Automobile Liability with minimum limits of \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement.

## **11. DEFENSE AND INDEMNIFICATION:**

**a.** Contractor hereby agrees to defend, indemnify, reimburse and hold harmless City, its appointed and elected officials, agents and employees for, from and against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this Agreement ("Claims"), unless such Claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of Contractor or its subcontractors either passive or

active, irrespective of fault, including City's concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City.

**b.** Contractor's duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to City regardless of whether Claimant has filed suit on the Claim. Contractor's duty to defend and indemnify City shall arise even if City is the only party sued by claimant and/or claimant alleges that City's negligence or willful misconduct was the sole cause of claimant's damages.

**c.** Contractor will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City's exclusive remedy.

**d.** Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of the Contractor under the terms of this indemnification obligation. The Contractor shall obtain, at its own expense, any additional insurance that it deems necessary for the City's protection.

**e.** This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

**12. TAXES, CHARGES AND PENALTIES:** The City is not liable for the payment of taxes, late charges or penalties of any nature, except for any additional amounts that the City may be required to pay under the City's prompt payment ordinance D.R.M.C. § 20-107, *et seq.* The Contractor shall promptly pay when due, all taxes, bills, debts and obligations it incurs performing the services under the Agreement and shall not allow any lien, mortgage, judgment or execution to be filed against City property.

**13. ASSIGNMENT; SUBCONTRACTING:** The Contractor shall not voluntarily or involuntarily assign any of its rights or obligations, or subcontract performance obligations, under this Agreement without obtaining the Executive Director's prior written consent. Any assignment or subcontracting without such consent will be ineffective and void, and will be cause for termination of this Agreement by the City. The Executive Director has sole and absolute discretion

whether to consent to any assignment or subcontracting, or to terminate the Agreement because of unauthorized assignment or subcontracting. In the event of any subcontracting or unauthorized assignment: (i) the Contractor shall remain responsible to the City; and (ii) no contractual relationship shall be created between the City and any subconsultant, subcontractor or assign.

**14. INUREMENT:** The rights and obligations of the Parties to the Agreement inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns, provided assignments are consented to in accordance with the terms of the Agreement.

**15. NO THIRD PARTY BENEFICIARY:** Enforcement of the terms of the Agreement and all rights of action relating to enforcement are strictly reserved to the Parties. Nothing contained in the Agreement gives or allows any claim or right of action to any third person or entity. Any person or entity other than the City or the Contractor receiving services or benefits pursuant to the Agreement is an incidental beneficiary only.

**16. NO AUTHORITY TO BIND CITY TO CONTRACTS:** The Contractor lacks any authority to bind the City on any contractual matters. Final approval of all contractual matters that purport to obligate the City must be executed by the City in accordance with the City's Charter and the Denver Revised Municipal Code.

**17. SEVERABILITY:** Except for the provisions of the Agreement requiring appropriation of funds and limiting the total amount payable by the City, if a court of competent jurisdiction finds any provision of the Agreement or any portion of it to be invalid, illegal, or unenforceable, the validity of the remaining portions or provisions will not be affected, if the intent of the Parties can be fulfilled.

**18. CONFLICT OF INTEREST:**

**a.** No employee of the City shall have any personal or beneficial interest in the services or property described in the Agreement. The Contractor shall not hire, or contract for services with, any employee or officer of the City that would be in violation of the City's Code of Ethics, D.R.M.C. §2-51, et seq. or the Charter §§ 1.2.8, 1.2.9, and 1.2.12.

**b.** The Contractor shall not engage in any transaction, activity or conduct that would result in a conflict of interest under the Agreement. The Contractor represents that it has disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities or conduct that would affect the judgment, actions or work of the Contractor

by placing the Contractor's own interests, or the interests of any party with whom the Contractor has a contractual arrangement, in conflict with those of the City. The City, in its sole discretion, will determine the existence of a conflict of interest and may terminate the Agreement if it determines a conflict exists, after it has given the Contractor written notice describing the conflict.

**19. NOTICES:** All notices required by the terms of the Agreement must be hand delivered, sent by overnight courier service, mailed by certified mail, return receipt requested, or mailed via United States mail, postage prepaid, if to Contractor at the address first above written, and if to the City at:

Executive Director of Climate Action, Sustainability and Resiliency or Designee  
201 W. Colfax Avenue, Suite 704  
Denver, Colorado 80202

With a copy of any such notice to:

Denver City Attorney's Office  
1437 Bannock St., Room 353  
Denver, Colorado 80202

Notices hand delivered or sent by overnight courier are effective upon delivery. Notices sent by certified mail are effective upon receipt. Notices sent by mail are effective upon deposit with the U.S. Postal Service. The Parties may designate substitute addresses where or persons to whom notices are to be mailed or delivered. However, these substitutions will not become effective until actual receipt of written notification.

**20. DISPUTES:** All disputes between the City and Contractor arising out of or regarding the Agreement will be resolved by administrative hearing pursuant to the procedure established by D.R.M.C. § 56-106(b)-(f). For the purposes of that administrative procedure, the City official rendering a final determination shall be the Executive Director as defined in this Agreement.

**21. GOVERNING LAW; VENUE:** The Agreement will be construed and enforced in accordance with applicable federal law, the laws of the State of Colorado, and the Charter, Revised Municipal Code, ordinances, regulations and Executive Orders of the City and County of Denver, which are expressly incorporated into the Agreement. Unless otherwise specified, any reference to statutes, laws, regulations, charter or code provisions, ordinances, executive orders, or related memoranda, includes amendments or supplements to same. Venue for any legal action  
Energetics Consulting Engineers, LLC  
Master On-Call Sustainability and Energy Services  
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relating to the Agreement will be in the District Court of the State of Colorado, Second Judicial District (Denver District Court).

**22. NO DISCRIMINATION IN EMPLOYMENT:** In connection with the performance of work under the Agreement, the Contractor may not refuse to hire, discharge, promote, demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, ethnicity, citizenship, immigration status, gender, age, sexual orientation, gender identity, gender expression, marital status, source of income, military status, protective hairstyle, or disability. The Contractor shall insert the foregoing provision in all subcontracts.

**23. COMPLIANCE WITH ALL LAWS:** Contractor shall perform or cause to be performed all services in full compliance with all applicable laws, rules, regulations and codes of the United States, the State of Colorado; and with the Charter, ordinances, rules, regulations and Executive Orders of the City and County of Denver.

**24. LEGAL AUTHORITY:** Contractor represents and warrants that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into the Agreement. Each person signing and executing the Agreement on behalf of Contractor represents and warrants that he has been fully authorized by Contractor to execute the Agreement on behalf of Contractor and to validly and legally bind Contractor to all the terms, performances and provisions of the Agreement. The City shall have the right, in its sole discretion, to either temporarily suspend or permanently terminate the Agreement if there is a dispute as to the legal authority of either Contractor or the person signing the Agreement to enter into the Agreement.

**25. NO CONSTRUCTION AGAINST DRAFTING PARTY:** The Parties and their respective counsel have had the opportunity to review the Agreement, and the Agreement will not be construed against any party merely because any provisions of the Agreement were prepared by a particular party.

**26. ORDER OF PRECEDENCE:** In the event of any conflicts between the language of the Agreement and the exhibits, the language of the Agreement controls.

**27. SMALL BUSINESS ENTERPRISE REQUIREMENTS:**

a. This Agreement is subject to Article V of Chapter 28, Denver Revised Municipal Code (“D.R.M.C.”), designated as §§ 28-117 to 28-199 D.R.M.C. (the “Goods and Services Ordinance”); and any Rules and Regulations promulgated pursuant thereto. In accordance with § 28-142, D.R.M.C., the Contractor shall self-perform no less than **thirty percent (30%)** of the total amount of the contract or purchase order.

b. Under § 28-146, D.R.M.C., the Contractor has an ongoing, affirmative obligation to comply with the SBE defined selection pool requirements and self-performance requirements upon which this Agreement was awarded, unless the City initiates a material modification to the scope of work affecting Contractor’s scope of work under this Agreement through change order or contract amendment under § 28-147, D.R.M.C. The Contractor acknowledges that:

(1) It must establish and maintain records and submit regular reports, as required, which will allow the City to assess the Contractor’s compliance with the defined selection pool requirements and self-performance requirements.

(2) Contractor shall have a continuing obligation to promptly inform DSBO in writing of any agreed upon increase or decrease in the scope of work of this Agreement, upon any of the bases under § 28-147, D.R.M.C., regardless of whether such increase or decrease in scope of work has been reduced to writing at the time of notification of the change to the City. Any increase in the scope of services of this Agreement, whether by amendment or other modification, which increases the dollar value of the Agreement, if such change is within the scope of work designated for performance by the Contractor or Consultant, shall be promptly submitted to the DSBO.

(3) The Contractor shall achieve defined selection pool and self-performance requirements by performing such work as required under the contract and the Goods and Services Ordinance.

(4) The Contractor shall supply to DSBO documentation required by ordinance with respect to the increased dollar value of this Agreement. The Contractor shall not, during the term of this Agreement:

(i) Fail to in fact perform as an SBE to achieve the work scope originally listed at proposal submission in order to achieve defined selection pool and self-performance requirements; or

(ii) Modify or eliminate all or any portion of the scope of work based on the contract as awarded, unless otherwise directed by the City.

(5) Failure to comply with these provisions may subject the Contractor to sanctions set forth in § 28-150 of the Goods and Services Ordinance.

(6) Should any questions arise regarding SBE and DSBO requirements the Contractor should consult the Goods and Services Ordinance, or may contact the DSBO representative at (720) 913-1999.

**28. INTELLECTUAL PROPERTY RIGHTS:** The City and Contractor intend that all property rights to any and all materials, text, logos, documents, booklets, manuals, references, guides, brochures, advertisements, URLs, domain names, music, sketches, web pages, plans, drawings, prints, photographs, specifications, software, data, products, ideas, inventions, and any other work or recorded information created by the Contractor and paid for by the City pursuant to this Agreement, in preliminary or final form and on any media whatsoever (collectively, “Materials”), shall belong to the City. The Contractor shall disclose all such items to the City and shall assign such rights over to the City upon completion of the Project. To the extent permitted by the U.S. Copyright Act, 17 USC § 101, *et seq.*, the Materials are a “work made for hire” and all ownership of copyright in the Materials shall vest in the City at the time the Materials are created. To the extent that the Materials are not a “work made for hire,” the Contractor (by this Agreement) sells, assigns and transfers all right, title and interest in and to the Materials to the City, including the right to secure copyright, patent, trademark, and other intellectual property rights throughout the world and to have and to hold such rights in perpetuity.

**29. SURVIVAL OF CERTAIN PROVISIONS:** The terms of the Agreement and any exhibits and attachments that by reasonable implication contemplate continued performance, rights, or compliance beyond expiration or termination of the Agreement survive the Agreement and will continue to be enforceable. Without limiting the generality of this provision, the Contractor’s obligations to provide insurance and to indemnify the City will survive for a period

equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

**30. ADVERTISING AND PUBLIC DISCLOSURE:** The Contractor shall not include any reference to the Agreement or to services performed pursuant to the Agreement in any of the Contractor's advertising or public relations materials without first obtaining the written approval of the Executive Director. Any oral presentation or written materials related to services performed under the Agreement will be limited to services that have been accepted by the City. The Contractor shall notify the Executive Director in advance of the date and time of any presentation. Nothing in this provision precludes the transmittal of any information to City officials.

**31. CONFIDENTIAL INFORMATION:**

**a. City Information:** Contractor acknowledges and accepts that, in performance of all work under the terms of this Agreement, Contractor may have access to Proprietary Data or confidential information that may be owned or controlled by the City, and that the disclosure of such Proprietary Data or information may be damaging to the City or third parties. Contractor agrees that all Proprietary Data, confidential information or any other data or information provided or otherwise disclosed by the City to Contractor shall be held in confidence and used only in the performance of its obligations under this Agreement. Contractor shall exercise the same standard of care to protect such Proprietary Data and information as a reasonably prudent Contractor would to protect its own proprietary or confidential data. "Proprietary Data" shall mean any materials or information which may be designated or marked "Proprietary" or "Confidential", or which would not be documents subject to disclosure pursuant to the Colorado Open Records Act or City ordinance, and provided or made available to Contractor by the City. Such Proprietary Data may be in hardcopy, printed, digital or electronic format.

**32. CITY EXECUTION OF AGREEMENT:** The Agreement will not be effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

**33. AGREEMENT AS COMPLETE INTEGRATION-AMENDMENTS:** The Agreement is the complete integration of all understandings between the Parties as to the subject matter of the Agreement. No prior, contemporaneous or subsequent addition, deletion, or other

modification has any force or effect, unless embodied in the Agreement in writing. No oral representation by any officer or employee of the City at variance with the terms of the Agreement or any written amendment to the Agreement will have any force or effect or bind the City.

**34. USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS:** Contractor shall cooperate and comply with the provisions of Executive Order 94 and its Attachment A concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in contract personnel being barred from City facilities and from participating in City operations.

**35. COMPLIANCE WITH DENVER WAGE LAWS:** To the extent applicable to the Contractor's provision of Services hereunder, the Contractor shall comply with, and agrees to be bound by, all rules, regulations, requirements, conditions, and City determinations regarding the City's Minimum Wage and Civil Wage Theft Ordinances, Sections 58-1 through 58-26 D.R.M.C., including, but not limited to, the requirement that every covered worker shall be paid all earned wages under applicable state, federal, and city law in accordance with the foregoing D.R.M.C. Sections. By executing this Agreement, the Contractor expressly acknowledges that the Contractor is aware of the requirements of the City's Minimum Wage and Civil Wage Theft Ordinances and that any failure by the Contractor, or any other individual or entity acting subject to this Agreement, to strictly comply with the foregoing D.R.M.C. Sections shall result in the penalties and other remedies authorized therein.

**36. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS:** Contractor consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature under the Agreement, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

### **Exhibit List**

#### **Exhibit A – Scope of Work.**

Energetics Consulting Engineers, LLC  
Master On-Call Sustainability and Energy Services  
CASR-202579679-00

**Exhibit B** – Request for Work Template.

**Exhibit C** – Budget & Rates.

**Exhibit D** – Certificate of Insurance.

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]**

**[SIGNATURE PAGES FOLLOW.]**

**Contract Control Number:**  
**Contractor Name:**

CASR-202579679-00  
ENERGETICS CONSULTING ENGINEERS, LLC

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at  
Denver, Colorado as of:

**SEAL**

**CITY AND COUNTY OF DENVER:**

**ATTEST:**

By:  
  
\_\_\_\_\_

\_\_\_\_\_

**APPROVED AS TO FORM:**  
  
Attorney for the City and County of Denver  
  
By: \_\_\_\_\_

**REGISTERED AND COUNTERSIGNED:**  
  
By: \_\_\_\_\_  
  
By: \_\_\_\_\_

**Contract Control Number:**  
**Contractor Name:**

CASR-202579679-00  
ENERGETICS CONSULTING ENGINEERS, LLC

By:

Signed by:

*Elizabeth Gillmor*

6F7DBE1565B34A3...

Name:

Elizabeth Gillmor

(please print)

Title:

President

(please print)

ATTEST: [if required]

By:

Name:

(please print)

Title:

(please print)

# EXHIBIT A

## SCOPE OF WORK (SOW)

### PROJECT DESCRIPTION

The Contractor, as deemed necessary by the Executive Director or the Executive Director's Designee, will be required to provide professional services for specific tasks in this Scope of Work. This work will NOT involve construction or any building maintenance, repair, or design work, and will be dedicated to supporting CASR's programs through data research, analysis, and reporting, as well as program evaluation, design, and implementation. Task Orders will be generated, consistent with this Agreement, with defined scopes of work on an as-needed basis to direct the specific activities of the Contractor at the time of the issuance of the Task Order.

Task Order scopes of work may include, but are not limited to, all of the activities listed below:

- 1. Impact evaluation, data analytics and reporting and planning: Analyses of city-wide data sets to determine impact of potential future as well as past policies or programs to determine how well they help the City progress towards goals.**

CASR is in the process of implementing several policies including the [Energize Denver Building Performance Policy](https://www.denvergov.org/Government/Agencies-Departments-Offices/Agencies-Departments-Offices-Directory/Climate-Action-Sustainability-Resiliency/High-Performance-Buildings-Homes/Energize-Denver-Hub) (<https://www.denvergov.org/Government/Agencies-Departments-Offices/Agencies-Departments-Offices-Directory/Climate-Action-Sustainability-Resiliency/High-Performance-Buildings-Homes/Energize-Denver-Hub>) or <https://www.denvergov.org/Government/Agencies-Departments-Offices/Agencies-Departments-Offices-Directory/Climate-Action-Sustainability-and-Resiliency/Cutting-Denvers-Carbon-Pollution/High-Performance-Buildings-and-Homes/Energize-Denver-Hub>) and new building Code updates. CASR is also implementing a number of programs funded by the [Climate Protection Fund](https://www.denvergov.org/Government/Agencies-Departments-Offices/Climate-Action-Sustainability-Resiliency/Climate-Protection-Fund) (<https://www.denvergov.org/Government/Agencies-Departments-Offices/Climate-Action-Sustainability-Resiliency/Climate-Protection-Fund>) or <https://www.denvergov.org/Government/Agencies-Departments-Offices/Climate-Action-Sustainability-Resiliency/Climate-Protection-Fund>) regarding e-mobility and offering rebates for solar, storage and EV chargers. These programs and policies will require back-end technical support to ensure policies and programs continue to be climate aligned and achieve their intended goal.

CASR is likely to have significant data analytics and reporting needs as well as strategic planning and delivery planning work for all areas of CASR's work including existing and new building decarbonization, deployment of heat pumps, distributed energy resources, vehicle electrification, resilient landscape design, ecosystem services, climate resiliency, green workforce, environmental justice, efficient water use, and zero waste. Strategic planning may include a variety of collaboration efforts with a diverse set of stakeholders to achieve CASR and our partner's priorities. Delivery planning will include work to help CASR and our partners have systems and processes to ensure implementation efforts stay on track. For the Denver Building Performance Policy, that may include analysis to understand breakdown of loads in buildings, support implementation contractors on technical needs, support policy, etc. For new building codes and electrification code requirements, CASR also anticipates opportunities to study embodied carbon, opportunities for emissions reductions and mitigation in code, along with programs and incentives that could shift the state of new building and home construction in Denver.

**Sample projects might include, but are not limited to:**

- Analysis to inform policy design such as setting EUI targets for buildings, developing details of alternate compliance pathways, and assisting in setting penalty amounts under the Energize Denver Building Performance Policy informed by data.
- Research and analysis to inform an alternate compliance pathway under the Energize Denver Building Performance Policy for manufacturing facilities.
- Analysis of policy and program greenhouse gas accounting and cost impacts, including social cost of carbon calculations
- Support for the development of building code proposals and options including analysis of the greenhouse gas benefits, economic feasibility, and other criteria of the City.
- Analysis of and methodology to quantify co-benefits of policies and programs in terms of improved comfort, indoor and outdoor air quality, etc.
- GHG reporting and analysis and projections

**2. Analysis of technology and research and other support to inform policy and program design.**

CASR is endeavoring to pursue a variety of future policies and programs that will require technical consulting input. Among these are initiatives aimed at existing and new building decarbonization, deployment of heat pumps, distributed energy resources, vehicle electrification, resilient landscape design, ecosystem services, climate resiliency, green workforce, environmental justice, efficient water use, and zero waste. CASR is also interested in tracking and reducing embodied carbon in new buildings.

**Sample projects might include, but are not limited to:**

Electrification technology analysis, availability of systems, cost of conversion, consulting on implementation of individual projects.

Research into configurations of PTAC systems and how to electrify each configuration most cost effectively.

Program Evaluation on programs and projects

Research into best practices on heat pump incentives

Research on ways to reduce and track embodied carbon in new buildings

Support the process to rewrite the policies governing municipal buildings such as XO72 and XO123 to create a new municipal.

Support development of municipal technical guidelines for municipal procurement of HVAC /heat pumps.

Other projects and analyses that would require significant electrical and mechanical engineering expertise.

**3. Energy consulting and evaluations. Analysis to help with implementation of individual projects.**

CASR is leveraging the Climate Protection Fund to decarbonize both public and private buildings and homes and will require technical and engineering consulting to implement electrification, solar, and EV projects in both settings. In addition, CASR is pursuing individual projects to achieve existing and new building decarbonization, deployment of heat pumps, distributed energy resources, vehicle electrification, resilience landscape design, ecosystem services, climate resiliency, green workforce, environmental justice, efficient water use, and zero waste.

**Sample projects might include, but are not limited to:**

1. Energy Consulting
  - a. Evaluation of energy and emissions reductions projects to support development efforts through business cases, analysis, and preliminary design documents
    - i. Financial, regulatory, or feasibility assessments or analysis
    - ii. Efficiency or conservation measure conceptual design
    - iii. Sustainability program development and implementation support
  - b. Electrification evaluations
    - i. Consulting with individual City or privately-owned buildings on how to electrify a building
    - ii. Feasibility studies
    - iii. Engineering for individual projects using electrical and mechanical engineering expertise review the building's energy needs and how it is used throughout the day and determine the best technology to electrify a specific building, and what configuration of heat pumps or other technology is most cost effective. This will include work to first conceptually design and engineer the solution, and then to measure or calculate the impacts of that technology with energy modeling software assuming we implemented the project.
  - c. Renewable energy evaluations
    - i. Feasibility studies and conceptual design
    - ii. Technical support
    - iii. Design of community solar gardens
  - d. Utility and DSM program evaluation and management
    - i. Coordination and integration of water audits, energy audits, business case developments, renewable energy evaluations, and system integration conceptual design
  - e. Fleet electrification of City and private fleets:
    - i. Life cycle cost analysis, charging infrastructure sizing and planning, etc.
    - ii. Project management
  - f. Development of sustainability business cases to support development initiatives as well as white papers and case studies for publication and marketing
2. Climate Resiliency
  - a. Climate Hazard Impact Assessment
    - i. Climate hazard vulnerability assessment for climate-vulnerable labor sectors
    - ii. Financial, regulatory, or feasibility assessments or analysis
    - iii. Technical support
  - b. Climate Hazard Vulnerability Assessment
    - i. Research and analysis of quantitative health-related costs of specific climate hazards in Denver
    - ii. Technical support
  - c. Evaluation of Capacity Building Strategies
    - i. Feasibility studies and cost-benefit analysis
    - ii. Analysis to inform policy and program design
    - iii. Project management
    - iv. Technical support
  - d. Natural resource conservation
    - i. Spatial analysis of natural resource and ecosystems services distribution
    - ii. Research and feasibility analysis of climate-resiliency focused green infrastructure strategies
    - iii. Technical support

3. Efficient Water Use and Zero Waste

- a. Water, Wastewater, and Waste
  - i. Water conservation assessments
  - ii. Waste diversion and greenhouse gas reductions
  - iii. Wastewater efficiency and greenhouse gas reduction

# **Exhibit B**

## **Request for Work Template**

### **ON-CALL REQUEST FOR WORK**

[Project Name]

#### **CITY & COUNTY OF DENVER PROJECT MANAGER**

[Name]

[Phone]

[Email] [XXXXXX.XXXXXX@denvergov.org](mailto:XXXXXX.XXXXXX@denvergov.org)

#### **SCOPING PROCESS**

[INSERT SCOPING PROCESS HERE]. Looking to receive a proposal to do this work based on the City of Denver On-call contract.

#### **PROPOSAL DUE DATE:**

[INSERT DATE]

#### **PROJECT PURPOSE**

The purpose of this project is [INSERT PROJECT PURPOSE HERE]

#### **PROJECT BUDGET**

Provide a not-to-exceed price to complete the Scope of Work. [INSERT DETAILS HERE]

#### **PROJECT INITIAL SCOPE AND DELIVERABLES**

[INSERT SOW/DELIVERABLES HERE].

#### **PROJECT SCHEDULE**

This work is expected [INSERT TIMELINE HERE].

#### **PROPOSAL GUIDELINES**

Proposals should include a clear final scope of work, deliverables, schedule, and a not to exceed budget for each piece of the project. All work performed on this project will be in accordance with the terms and conditions of your MASTER ON-CALL SUSTAINABILITY AND ENERGY SERVICES AGREEMENT with the City and County of Denver. All proposals must be signed by an official agent or representative of the company submitting the proposal. If you have any questions with the development of this On-Call Proposal Request, please contact the Project Manager with the City and County of Denver whose contact information is listed at the top of this proposal request. Your interest in assisting with this project is greatly appreciated.

## Exhibit C – Budget & Rates

Allowable Expense	Description	Total Amount
Mileage	Current IRS Standard Mileage Rate – need to include current rate as an attachment to each invoice on current rate. Up to no more than \$5,000 per year and not to exceed \$15,000 for the term of the contract.	\$15,000
Outreach Materials and Meeting Supplies	Receipts are to be provided on any items purchased and provided with invoice. Up to no more than \$5,000 per year and not to exceed \$15,000 for the term of the contract.	\$15,000
<b>Total of Allowable Expenses</b>		\$30,000

## Exhibit C - RATES

### PRIME POSITIONS – ENERGETICS CONSULTING ENGINEERS, LLC

All RATES quoted shall be firm and fixed for the specified contract period at a 3% rate increase per year.

Prime: Energetics Consulting Engineers, LLC

List **ALL** potential personnel titles/classifications that may be utilized under the contract and their respective hourly rate. Do not list names of personnel, only titles (i.e. Project Manager). Provide additional sheets as necessary.

Title/Classification	Responsibilities	Rate/Hr. 2025	Rate/Hr. 2026	Rate/Hr. 2027
Principal	Principal in charge	\$226	\$232.78	\$239.79
Associate principal	Senior PM with operational responsibility	\$205	\$211.15	\$217.48
Senior Energy Project Manager	Project management and analysis	\$195	\$200.85	\$206.88
Energy Project Manager	Project management and analysis	\$189	\$194.67	\$200.51
Energy Analyst III	Building energy analysis and modeling	\$184	\$189.52	\$195.21
Energy Analyst II	Building energy analysis and modeling	\$147	\$151.41	\$155.95
Energy Analyst I	Building energy analysis and modeling	\$126	\$129.78	\$133.67
Sustainability Director	Oversees the Sustainability department and services	\$195	\$200.85	\$206.88

Senior Sustainability Project Manager	Project management and analysis	\$163	\$167.89	\$172.93
Sustainability Project Manager	Project management and analysis	\$142	\$146.26	\$150.65
Sustainability Analyst II	Sustainability analysis	\$126	\$129.78	\$133.67
Sustainability Analyst I	Sustainability analysis	\$116	\$119.48	\$123.06
Existing Buildings Director	Oversees the Existing Building department and services	\$195	\$200.85	\$206.88
Existing Buildings Engineer	Audits and analysis of existing building performance	\$184	\$189.52	\$195.21
Support / Admin	Admin support	\$100	\$103.00	\$106.09
Intern	Project support	\$79	\$81.37	\$83.81

## Exhibit C - RATES

### SUB CONTRACTOR POSITIONS - NORESKO

All RATES quoted shall be firm and fixed for the specified contract period at a 3% rate increase per year.

Sub: NORESKO

List **ALL** potential personnel titles/classifications that may be utilized under the contract and their respective hourly rate. Do not list names of personnel, only titles (i.e. Project Manager). Provide additional sheets as necessary.

Title/Classification	Responsibilities	Rate/Hr. 2025	Rate/Hr 2026.	Rate/Hr. 2027
Director	Thought leader, works with managers to support project, QAQC resource	\$268	\$276.04	\$284.32
Manager	QAQC Resource, supports project managers	\$229	\$235.87	\$242.95
Senior Engineer	Leads project deliverables and manages timelines, client coordination, technical resource, executes deliverables	\$194	\$199.82	\$205.81
Senior Analyst	Leads project deliverables and manages timelines, client coordination, technical resource, executes deliverables	\$194	\$199.82	\$205.81
Senior Project manager	Leads project deliverables and manages timelines, client coordination, technical resource, executes deliverables	\$194	\$199.82	\$205.81
Engineer II	Executes deliverables, support project coordination	\$165	\$169.95	\$175.05

Engineer III	Executes deliverables, support project coordination	\$165	\$169.95	\$175.05
Analyst II	Executes deliverables, support project coordination	\$165	\$169.95	\$175.05
Analyst III	Executes deliverables, support project coordination	\$165	\$169.95	\$175.05
Project Manager II	Executes deliverables, support project coordination	\$165	\$169.95	\$175.05
Project Manager III	Executes deliverables, support project coordination	\$165	\$169.95	\$175.05
Associate Engineer I	Executes deliverables, support project coordination	\$130	\$133.90	\$137.92
Associate Analyst I	Executes deliverables, support project coordination	\$130	\$133.90	\$137.92
Associate Project Manager I	Executes deliverables, support project coordination	\$130	\$133.90	\$137.92
Associate	Executes deliverables, support project coordination	\$130	\$133.90	\$137.92
Project Coordinator	Project support and coordination	\$127	\$130.81	\$134.73

## Exhibit C - RATES

### SUB CONTRACTOR – HERITAGE GREEN

All RATES quoted shall be firm and fixed for the specified contract period at a 3% rate increase per year.

Sub: Heritage Green Consulting

List **ALL** potential personnel titles/classifications that may be utilized under the contract and their respective hourly rate. Do not list names of personnel, only titles (i.e. Project Manager). Provide additional sheets as necessary.

Title/Classification	Responsibilities	Rate/Hr. 2025	Rate/Hr. 2026	Rate/Hr. 2027
Principal	Technical code expertise and consulting	\$175	\$180.25	\$185.66

### SUB CONTRACTOR – BUILDTANK, INC.

All RATES quoted shall be firm and fixed for the specified contract period at a 3% rate increase per year.

Sub: Build Tank, Inc.

List **ALL** potential personnel titles/classifications that may be utilized under the contract and their respective hourly rate. Do not list names of personnel, only titles (i.e. Project Manager). Provide additional sheets as necessary.

Title/Classification	Responsibilities	Rate/Hr. 2025	Rate/Hr. 2026	Rate/Hr. 2027
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Principal	Principal in charge	\$150	\$154.50	\$159.14
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### SUB CONTRACTOR - CMTA

All RATES quoted shall be firm and fixed for the specified contract period at a 3% rate increase per year.

Sub: CMTA

List **ALL** potential personnel titles/classifications that may be utilized under the contract and their respective hourly rate. Do not list names of personnel, only titles (i.e. Project Manager). Provide additional sheets as necessary.

Title/Classification	Responsibilities	Rate/Hr. 2025	Rate/Hr. 2026	Rate/Hr. 2027
EIT I	Assignments under the guidance of experienced engineers	\$160	\$164.80	\$169.60
EIT II	Performs continuing development-level engineering work	\$165	\$169.95	\$174.90
EIT III	In addition to above, may coordinate work of technicians.	\$170	\$175.10	\$180.35
Engineer I	Professional engineer (PE) working under general supervision	\$190	\$195.70	\$201.57
Engineer II	PE with responsibility for technical performance on small to medium	\$210	\$216.30	\$222.79
Engineer III	PE with major responsibility for technical performance on medium to large projects or multiple projects	\$240	\$247.20	\$254.62
Engineer IV	PE with full responsibility for large, complex projects or a number of large projects.	\$270	\$278.10	\$286.44
Engineering Manager	Has on-site responsibility for day-to-day operations of firm	\$275	\$283.25	\$291.75
Engineering VP	Responsible for a segment, discipline, business unit, geographic region, or project type.	\$315	\$324.45	\$334.18

### SUB CONTRACTOR – M-TECH MECHANICAL

All RATES quoted shall be firm and fixed for the specified contract period at a 3% rate increase per year.

Sub: MTech Mechanical

List **ALL** potential personnel titles/classifications that may be utilized under the contract and their respective hourly rate. Do not list names of personnel, only titles (i.e. Project Manager). Provide additional sheets as necessary.

Title/Classification	Responsibilities	Rate/Hr. 2025	Rate/Hr. 2026	Rate/Hr. 2027
Certified Energy Manager	Oversee energy projects	\$185	\$190.55	\$196.27

Project Manager	Project management	\$153	\$157.59	\$162.32
Engineering	Project engineering	\$213	\$219.39	\$225.97
Energy Engineer	Energy engineering	\$205	\$211.15	\$217.48
Finance	Financial analysis	\$185	\$190.55	\$196.27
Performance Verification	Performance verification activities	\$220	\$226.60	\$233.40
Service Start Up	Service startup activities	\$188	\$193.64	\$199.45
Director	Oversee staff and projects	\$235	\$242.05	\$249.31
Preconstruction Manager	Preconstruction management	\$235	\$242.05	\$249.31
Mechanical PE	Mechanical engineering services	\$220	\$226.60	\$233.40

### SUB CONTRACTOR – ENCORE ELECTRIC

All RATES quoted shall be firm and fixed for the specified contract period at a 3% rate increase per year.

Sub: Encore Electric

List **ALL** potential personnel titles/classifications that may be utilized under the contract and their respective hourly rate. Do not list names of personnel, only titles (i.e. Project Manager). Provide additional sheets as necessary.

Title/Classification	Responsibilities	Rate/Hr. 2025	Rate/Hr. 2026	Rate/Hr. 2027
PE – Electrical Engineer	Constructability reviews etc.	\$250	\$257.50	\$265.23
Designer	Drafting	\$150	\$154.50	\$159.14
Account Manager	Preconstruction / Budgeting efforts	\$150	\$154.50	\$159.14
Senior Estimator	Preconstruction / Budgeting efforts	\$150	\$154.50	\$159.14

**CERTIFICATE OF LIABILITY INSURANCE**

DATE (MM/DD/YYYY)

10/22/2024

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).

<b>PRODUCER</b> AssuredPartners Design Professionals Insurance Services, LLC 3697 Mt. Diablo Blvd Suite 230 Lafayette CA 94549	<b>CONTACT</b> NAME: Robyn Catania PHONE (A/C, No, Ext): 360-626-9535 FAX (A/C, No): 360-626-9535 E-MAIL ADDRESS: robyn.catania@assuredpartners.com														
<b>INSURED</b> Energetics Consulting Engineers LLC 6140 S Gun Club Rd Suite K6-121 Aurora CO 80016	<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A: Sentinel Insurance Company</td> <td>11000</td> </tr> <tr> <td>INSURER B: Hartford Casualty Insurance Company</td> <td>29424</td> </tr> <tr> <td>INSURER C: Hartford Fire Insurance Company</td> <td>19682</td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Sentinel Insurance Company	11000	INSURER B: Hartford Casualty Insurance Company	29424	INSURER C: Hartford Fire Insurance Company	19682	INSURER D:		INSURER E:		INSURER F:	
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INSURER D:															
INSURER E:															
INSURER F:															

 License#: 6003745  
 ENERCON-02
**COVERAGES****CERTIFICATE NUMBER: 718517719****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.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <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 <input type="checkbox"/> OTHER:	Y	Y	52SBWNW6282	10/22/2024	10/22/2025	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMP/OP AGG \$4,000,000 \$
A	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	52SBWNW6282	10/22/2024	10/22/2025	COMBINED SINGLE LIMIT (Ea accident) \$2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000	Y	Y	52SBWNW6282	10/22/2024	10/22/2025	EACH OCCURRENCE \$1,000,000 AGGREGATE \$1,000,000 \$
B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	Y	52WEGPK2173	10/22/2024	10/22/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
C	Professional Liab; Claims Made			52OH043685724	3/1/2024	3/1/2025	Per Claim \$1,000,000 Aggregate \$2,000,000

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

The certificate holder is an additional insured per the attached.  
 Insured owns no company vehicles; therefore, hired/non-owned auto is the maximum coverage that applies.  
 The Umbrella Policy is follow form to its underlying Policies: General Liability/Auto Liability/Employers Liability.  
 The City and County of Denver, its elected and appointed officials, employees and volunteers are included as Additional Insureds on the Commercial General Liability and Auto Liability when required by written contract regarding activities by or on behalf of the Named Insured. The Commercial General Liability insurance is primary insurance and any other insurance maintained by the Additional Insured shall be excess only and non-contributing with this insurance. A waiver of subrogation applies to the Commercial General Liability, Auto Liability, Umbrella / Excess Liability and Workers Compensation / Employers Liability in favor of the Additional Insured.

**CERTIFICATE HOLDER****CANCELLATION**

City and County of Denver Climate Action, Sustainability and Resiliency Dept. 704 201 W. Colfax Ave. Dept. 704 Denver CO 80202	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**WAIVER OF OUR RIGHT TO RECOVER  
FROM OTHERS ENDORSEMENT**

**Policy Number:** 52 WEG PK2173

**Endorsement Number:**

**Effective Date:** 10/22/24

Effective hour is the same as stated on the Information Page of the policy.

**Named Insured and Address:** ENERGETICS CONSULTING ENGINEERS LLC  
6140 S GUN CLUB RD STE K6-121  
AURORA CO 80016

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

**SCHEDULE**

Any person or organization for whom you are required by contract or agreement to obtain this waiver from us. Endorsement is not applicable in KY, NH, NJ or for any MO construction risk

Countersigned by \_\_\_\_\_  
Authorized Representative

(b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

**b. Real Estate Manager**

Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

**c. Temporary Custodians Of Your Property**

Any person or organization having proper temporary custody of your property if you die, but only:

- (1) With respect to liability arising out of the maintenance or use of that property; and
- (2) Until your legal representative has been appointed.

**d. Legal Representative If You Die**

Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this insurance.

**e. Unnamed Subsidiary**

Any subsidiary and subsidiary thereof, of yours which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of this Coverage Part.

The insurance afforded herein for any subsidiary not shown in the Declarations as a named insured does not apply to injury or damage with respect to which an insured under this insurance is also an insured under another policy or would be an insured under such policy but for its termination or upon the exhaustion of its limits of insurance.

**3. Newly Acquired Or Formed Organization**

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, 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 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and

- b. Coverage under this provision does not apply to:

- (1) "Bodily injury" or "property damage" that occurred; or
- (2) "Personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

**4. Operator Of Mobile Equipment**

With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person driving the equipment; or
- b. "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.

**5. Operator of Nonowned Watercraft**

With respect to watercraft you do not own that is less than 51 feet long and is not being used to carry persons for a charge, any person is an insured while operating such watercraft with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the watercraft, and only if no other insurance of any kind is available to that person or organization for this liability.

However, no person or organization is an insured with respect to:

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

**6. Additional Insureds When Required By Written Contract, Written Agreement Or Permit**

The person(s) or organization(s) identified in Paragraphs a. through f. below are additional insureds when you have agreed, in a written

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contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement, or the issuance of the permit.

A person or organization is an additional insured under this provision only for that period of time required by the contract, agreement or permit.

However, no such person or organization is an additional insured under this provision if such person or organization is included as an additional insured by an endorsement issued by us and made a part of this Coverage Part, including all persons or organizations added as additional insureds under the specific additional insured coverage grants in Section F. – Optional Additional Insured Coverages.

### a. Vendors

Any person(s) or organization(s) (referred to below as vendor), 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 and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

- (1) The insurance afforded to the vendor is subject to the following additional exclusions:

This insurance does not apply to:

- (a) "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;
- (b) Any express warranty unauthorized by you;
- (c) Any physical or chemical change in the product made intentionally by the vendor;
- (d) 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;

- (e) 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;

- (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

- (g) 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; or

- (h) "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:

- (i) The exceptions contained in Subparagraphs (d) or (f); or

- (ii) 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.

- (2) This insurance does not apply to 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.

### b. Lessors Of Equipment

- (1) Any person or organization from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

**c. Lessors Of Land Or Premises**

- (1) Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:
- (a) Any "occurrence" which takes place after you cease to lease that land or be a tenant in that premises; or
- (b) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

**d. Architects, Engineers Or Surveyors**

- (1) Any architect, engineer, or surveyor, 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:
- (a) In connection with your premises; or
- (b) In the performance of your ongoing operations performed by you or on your behalf.
- (2) With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:
- This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:
- (a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
- (b) Supervisory, inspection, architectural or engineering activities.

**e. Permits Issued By State Or Political Subdivisions**

- (1) Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:
- (a) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
- (b) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

**f. Any Other Party**

- (1) Any other person or organization who is not an insured under Paragraphs **a.** through **e.** above, 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:
- (a) In the performance of your ongoing operations;
- (b) In connection with your premises owned by or rented to you; or
- (c) In connection with "your work" and included within the "products-completed operations hazard", but only if
- (i) The written contract or written agreement requires you to provide such coverage to such additional insured; and
- (ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:
- "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

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- (a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
- (b) Supervisory, inspection, architectural or engineering activities.

The limits of insurance that apply to additional insureds are described in Section **D. – Limits Of Insurance.**

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section **E. – Liability And Medical Expenses General Conditions.**

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.

## D. LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE

### 1. The Most We Will Pay

The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- a. Insureds;
- b. Claims made or "suits" brought; or
- c. Persons or organizations making claims or bringing "suits".

### 2. Aggregate Limits

The most we will pay for:

- a. Damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard" is the Products-Completed Operations Aggregate Limit shown in the Declarations.
- b. Damages because of all other "bodily injury", "property damage" or "personal and advertising injury", including medical expenses, is the General Aggregate Limit shown in the Declarations.

This General Aggregate Limit applies separately to each of your "locations" owned by or rented to you.

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

This General Aggregate limit does not apply to "property damage" to premises while rented to you or temporarily occupied by you with permission of the owner, arising out of fire, lightning or explosion.

### 3. Each Occurrence Limit

Subject to **2.a.** or **2.b.** above, whichever applies, the most we will pay for the sum of all damages because of all "bodily injury", "property damage" and medical expenses arising out of any one "occurrence" is the Liability and Medical Expenses Limit shown in the Declarations.

The most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses Limit shown in the Declarations.

### 4. Personal And Advertising Injury Limit

Subject to **2.b.** above, the most we will pay for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization is the Personal and Advertising Injury Limit shown in the Declarations.

### 5. Damage To Premises Rented To You Limit

The Damage To Premises Rented To You Limit is the most we will pay under Business Liability Coverage for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner.

In the case of damage by fire, lightning or explosion, the Damage to Premises Rented To You Limit applies to all damage proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of these.

### 6. How Limits Apply To Additional Insureds

The most we will pay on behalf of a person or organization who is an additional insured under this Coverage Part is the lesser of:

- a. The limits of insurance specified in a written contract, written agreement or permit issued by a state or political subdivision; or
- b. The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to the Limits of Insurance shown in the Declarations and described in this Section.

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If more than one limit of insurance under this policy and any endorsements attached thereto applies to any claim or "suit", the most we will pay under this policy and the endorsements is the single highest limit of liability of all coverages applicable to such claim or "suit". However, this paragraph does not apply to the Medical Expenses limit set forth in Paragraph 3. above.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

## **E. LIABILITY AND MEDICAL EXPENSES GENERAL CONDITIONS**

### **1. Bankruptcy**

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

### **2. Duties In The Event Of Occurrence, Offense, Claim Or Suit**

#### **a. Notice Of Occurrence Or Offense**

You or any additional insured must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

#### **b. Notice Of Claim**

If a claim is made or "suit" is brought against any insured, you or any additional insured must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You or any additional insured must see to it that we receive a written notice of the claim or "suit" as soon as practicable.

#### **c. Assistance And Cooperation Of The Insured**

You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation, settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the insured because of injury or damage to which this insurance may also apply.

### **d. Obligations At The Insured's Own Cost**

No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

### **e. Additional Insured's Other Insurance**

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance.

### **f. Knowledge Of An Occurrence, Offense, Claim Or Suit**

Paragraphs **a.** and **b.** apply to you or to any additional insured only when such "occurrence", offense, claim or "suit" is known to:

- (1) You or any additional insured that is an individual;
- (2) Any partner, if you or an additional insured is a partnership;
- (3) Any manager, if you or an additional insured is a limited liability company;
- (4) Any "executive officer" or insurance manager, if you or an additional insured is a corporation;
- (5) Any trustee, if you or an additional insured is a trust; or
- (6) Any elected or appointed official, if you or an additional insured is a political subdivision or public entity.

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This Paragraph f. applies separately to you and any additional insured.

### 3. Financial Responsibility Laws

- a. When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, the insurance provided by the policy for "bodily injury" liability and "property damage" liability will comply with the provisions of the law to the extent of the coverage and limits of insurance required by that law.
- b. With respect to "mobile equipment" to which this insurance applies, we will provide any liability, uninsured motorists, underinsured motorists, no-fault or other coverage required by any motor vehicle law. We will provide the required limits for those coverages.

### 4. Legal Action Against Us

No person or organization has a right under this Coverage Form:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Form unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this insurance or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

### 5. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom a claim is made or "suit" is brought.

### 6. Representations

#### a. When You Accept This Policy

By accepting this policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and

- (3) We have issued this policy in reliance upon your representations.

### b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business at the inception date of this Coverage Part, we shall not deny any coverage under this Coverage Part because of such failure.

### 7. Other Insurance

If other valid and collectible insurance is available for a loss we cover under this Coverage Part, our obligations are limited as follows:

#### a. Primary Insurance

This insurance is primary except when b. below applies. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

#### b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

#### (1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

#### (2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

#### (3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

#### (4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section A. – Coverages.

#### (5) Property Damage To Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion k. of Section A. – Coverages.

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That is other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

**(7) When You Add Others As An Additional Insured To This Insurance**

That is other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this Coverage Part:

**(a) Primary Insurance When Required By Contract**

This insurance is primary if you have agreed in a written contract, written agreement or permit that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

**(b) Primary And Non-Contributory To Other Insurance When Required By Contract**

If you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (a) and (b) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under this Coverage Part to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

**c. Method Of Sharing**

If all the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

**8. Transfer Of Rights Of Recovery Against Others To Us****a. Transfer Of Rights Of Recovery**

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

**b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)**

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.