

04 September 2024

Mr. Carl Young  
County Administrator  
Huerfano County  
401 Main Street  
Suite 302  
Walsenburg, CO 81089

RE: Master Planning and Financial Analysis Consulting Engagement Letter:  
Rio Cucharas Inn Redevelopment Project and Revolving Loan Fund Initiation

Mr. Young:

Baker Tilly Advisory Group, LP (“Baker Tilly”) is pleased to confirm our understanding of the nature of the consulting services we are to provide to Huerfano County (“County”, “client”, “you”, “your”) for the proposed redevelopment of the Rio Cucharas Inn in Walsenburg, CO and the initiation of a revolving loan fund to support affordable housing development in Huerfano County. This engagement letter and the attached standard business terms (collectively, this “Agreement”) set forth an understanding of the nature and scope of the services to be performed and the fees we will charge for such services, as well as to outline the responsibilities of Baker Tilly and the client to ensure that our professional services are performed with mutually agreed-upon objectives.

With regard to the above redevelopment project, we propose to perform the following services:

### **Redevelopment Opportunities**

The affordable housing industry, and specifically publicly financing for such, is complex and requires significant access to capital, technical knowledge, and relationships for development concepts to become realized. It is Baker Tilly's priority to support developers new to the industry or public authorities with little experience, to bridge these gaps and enter the market with an understanding of the complexities and nuances, including the risks and rewards of affordable housing transactions. In order to set the engagement up for success, we will complete and review with you and your staff the following major components of this specific redevelopment project and affordable housing finance:

- Property Condition Assessment (PCA) of the Rio Cucharas Inn. This will be a technical analysis of work required for rehabilitation of the building and conversion to affordable housing, performed by a third-party consulting firm, and included in our cost proposal.
- Options for redevelopment the Rio Cucharas Inn to meet the 2023 Housing Needs Assessment for Huerfano County, including options for rehabilitation of the existing building, expansion with additional affordable housing units, or new construction of affordable housing units.
- Additional uses for the property, such as reuse or expansion of the existing amenities for public recreation, and conversion of surplus land to serve seasonal interest for recreational vehicles.
- Number, type, and size of housing units.
- Transportation and utility infrastructure to align with the redevelopment options.
- Programming and financing for affordable or workforce housing (Colorado Proposition 123, USDA rural development, LIHTC, NMTC, etc.)
  - Navigating the resources (QAP, scoring guides, etc.)
  - Affordable housing stakeholders

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- Access to capital
- Financial guarantees
- Working with HUD, USDA, etc.
- The development process and execution challenges, including selecting a development team.

## **TASK I – Redevelopment Feasibility**

### **Phase I.A – Master Planning**

We will work with you and your staff in determining the optimal approach to redeveloping the Rio Cucharas Inn, the most efficient unit mix to improve financial feasibility and operational health, and other non-residential elements of the redevelopment. The purpose of this step will be to create a master plan that can support financial modeling and give focus to project financing and redevelopment efforts.

Specific services include:

- Obtaining a PCA of the existing property, with a high-level estimate of rehabilitation costs.
- Reviewing the existing site and infrastructure.
- Testing and developing redevelopment options, including unit mixes, compliant with financing sources, which address the housing needs of the County and maximize financial feasibility.
- Creating a graphical deliverable, based on a current Survey, which uses current project and “as of right” zoning for conversion to or expansion of the options for affordable/workforce, as well as reasonable options for re-zoning to reach project goals.
- Assessing options and providing a strategy for financing the redevelopment project.

### **Engagement Deliverables**

We will create a consolidated report containing the following items for presentation to and consideration by the Board of County Commissioners (BOCC):

- PCA of the existing Rio Cucharas Inn
- Master plan with considered options for redevelopment
- Financial projections and possible funding sources
- Suggested deal structures to optimize redevelopment efforts, with long-term viability in mind
- In-person presentation to the County administration and BOCC.

### **Phase I.B – Development Planning**

Based on the decisions of Phase 1.A, we will focus our efforts on a single path of redevelopment. We will work with you and your staff to build a preliminary financial model for the redevelopment transaction. The purpose of this step will be to provide basic financial projections for use in further project planning and developer solicitation. Based on the results of the modeling, Baker Tilly will provide strategic advice as to deal structure and any additional financing sources to consider.

Specific services include:

- Overseeing Technical Due Diligence (TDD) activities related to environmental and geotechnical documentation.
- Creating a financial model of the project compliant with applicable underwriting requirements, based primarily on your inputs and the selected master planning option developed in Phase I.A.
- Investigating ancillary funding availability, including USDA, CDBG, NMTC, IRA, HOME, AHP, Colorado DOLA, and TIF, among other funds.
- Proposing reasonable deal structures to complete the redevelopment project.
- Aiding you in developing ancillary relationships with industry professionals as necessary to enhance or complete the transaction.
- Unless the County is interested in self-development approaches, we will create a solicitation package and assist with procurement of development partners to complete the redevelopment.

### **Engagement Deliverables**

We will create a consolidated report containing the following items for presentation to and consideration by the Board of County Commissioners (BOCC):

- Additional TDD reports
- Pro-forma financial model, based on assumed deal structure and funding sources
- Solicitation documents—RFP or RFQ—for development partners
- In-person presentation to the County administration and BOCC.

*PLEASE NOTE: Preparation of a financial model involves constructing a projection based on assumptions provided by the County and performing certain other procedures with respect to the model without evaluating the support for or expressing an opinion, or any form of assurance on, the assumptions underlying it. It represents, to the best of the County's knowledge, the entity's expected sources and uses of funds, results of operations and cash flows for the period reflected. The County is responsible for representations about its plans and expectations and for disclosure of significant information that might affect the ultimate realization of the forecasted results.*

### **TASK II – Revolving Loan Fund**

Baker Tilly can assist with the creation and administration of the proposed Revolving Loan Fund (RLF). Baker Tilly Municipal Advisors, LLC (“BTMA”) is an SEC-registered Municipal Advisor serving state and local governments throughout the Country. BTMA takes an independent, fiduciary role to its clients, leading the nation as one of the top independent advisors. BTMA agrees to furnish and perform the following services:

#### **Phase II.A – Revolving Loan Fund Design and Structure**

Based on the previously conducted housing needs assessment, BTMA will assist in developing a strategic framework for the RLF, including:

1. Assist in establishing clear objectives and criteria for RLF allocation.
2. Assist in development of RLF Program Guidelines and policies.
3. Assist in establishing applicable loan products (e.g., construction loans, rehabilitation loans, permanent financing) and housing eligibility requirements.
4. Develop acceptable loan terms, collateral requirements, interest rate policies, repayment structures, and risk mitigation strategies.

### **Phase II.B – Development of Application Requirements**

Resulting from Task I, BTMA will assist in developing the documentation requirements for RLF application, including:

1. Pre-application requirements.
2. Application submission standards, to include certain documents necessary to adequately determine project suitability and financial viability.
3. Application submission templates where appropriate.
4. Compilation of necessary closing document listings in conjunction with Client Counsel.

### **Phase II.C – Financial Modeling and Forecasting**

BTMA will create financial models to illustrate viability of cash flows and long-term performance, to include:

1. Developing cash flow projections, expected net rates, and liquidity management strategies.
2. Create initial reasonable scenarios for potential loan default rates, prepayments, and other risks, along with mitigation strategies.
3. Advising on fund capitalization strategies, including leveraging state and federal housing resources and grants where applicable (may require engagement from other BTAG team members).

### **Phase II.D – RLF Ongoing Administration**

BTMA will assist in the maintenance and ongoing administration of the RLF, including:

1. Assist in the financial evaluation of an application's feasibility.
2. Structure loans in conformance with acceptable loan product standards and application requirements.
3. Provide RLF analysis similar to Task III (2) to illustrate loan term viability as it relates to RLF portfolio.
4. Assist in updating financial models to account for ongoing prepayment, delinquency, or default realizations.
5. Assist in updating comprehensive models to provide updates to RLF portfolio, including for governing body reporting (lead time standards will be required for reporting).

### **Phase II.E – General Municipal Advisory Services**

Unless otherwise agreed to by the parties and outside of the Task I through IV, in connection with any other request for services relative to any financial topic, new project concept planning or other financially related topic or project (each referred to herein as a Project), BTMA shall perform the following services, as applicable:

1. Provide general financial advice relative to a Project.
2. Survey the resources available to determine the financial feasibility of a Project.
3. Assist in the development of a plan including alternative approaches for a particular Project that may be available and appropriate for such Project.
4. Assist the Client in selecting an approach for a Project.
5. Advise the Client generally on current market conditions, financial impacts of federal, state, or other laws, and other general information and economic data that might be relevant to a Project.
6. Assist Client, as requested, in identifying other professional services that may be necessary for a Project.
7. Assist Client in coordinating the activities of the working group for a Project as needed.

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8. Assist with the review of documents provided that are relevant to the development of a plan and alternative approaches for a Project.
9. Assist the Client with other components of a Project as requested and agreed upon.

### **Non-attest Services**

As part of this engagement, we will perform certain non-attest services. For purposes of the Engagement Letter and Task II, non-attest services include services that the Government Auditing Standards refers to as non-audit services.

- We will not perform any management functions or make management decisions on your behalf with respect to any non-attest services we provide.
- In connection with our performance of any non-attest services, you agree that you will:
  - Continue to make all management decisions and perform all management functions, including approving all journal entries and general ledger classifications when they are submitted to you.
  - Designate an employee with suitable skill, knowledge, and/or experience, preferably within senior management, to oversee the services we perform.
  - Evaluate the adequacy and results of the non-attest services we perform.
  - Accept responsibility for the results of our non-attest services.
- Establish and maintain internal controls, including monitoring ongoing activities related to the non-attest function.

### **Conflicts of Interest**

We are unaware of any conflicts of interest related to this Engagement Letter – Task II that exist at this time.

### **Expiration**

This Agreement will expire the earlier of:

- Presentation of all necessary reports of our findings to the County
- Written notification from you wishing to convert this engagement to a full-service development advisory services or municipal advisory services engagement, for which separate engagement letters will be provided
- Written notification from you wishing to terminate this engagement, in such case, the County will compensate Baker Tilly for services provided up to the date of termination
- One year from execution of this proposal

### **Responsibility and Decision-Making Authority**

Baker Tilly staff will perform these services in coordination with County staff. The County will be responsible for the approval and submission of all application materials and negotiation of terms and agreements with any partners and resource providers. BTAG and BTMA will not be part of management and will not make management decisions.

<b>Project Professional Fees &amp; Expenses [Fees are on a per project basis]</b>		
<b>Project Stage</b>	<b>Fee Estimate</b>	<b>Timing/Phase Duration</b>
<b>TASK I: Redevelopment Feasibility</b>		
<b>I.A Master Planning Services</b>		
<b>Property Condition Assessment (PCA), Feasibility Review, Zoning Analysis, and Redevelopment Options</b>	\$35,000	\$10,000 due and payable at signing of this engagement letter, non-refundable. Balance due at presentation of deliverables. Projected duration: 90 days.
<b>I.B Development Planning Services</b>		
<b>Oversight of environmental/geotechnical assessments and land surveying, pro-forma financial modeling, and solicitation and selection of development partners</b>	\$25,000	Due and payable at presentation of deliverables. Assumes that County seeks an independent third-party development firm to complete the work. Projected duration 60-90 days.
<b>TASK II: Revolving Loan Fund (RLF)</b>		
<b>II.A – RLF Design and Structure</b>		
<b>Development of fund structure—policies, products, requirements, and terms.</b>	\$25,000	Projected duration 120 days.
<b>II.B – Development of Application Requirements</b>		
<b>Creation of application documentation and requirements and closing procedures.</b>	\$12,500	Beginning once Task II.A is approximately 50% complete. Projected duration 90 days.
<b>II.C – Financial Modeling and Forecasting</b>		
<b>Pro-forma financial modeling and capitalization strategies and sources.</b>	\$30,000	Beginning once Task II.B is approximately 65% complete. Projected duration 90 days.
<b>II.D – Ongoing RLF Administration</b>		
<b>Document and assess fund operations. Monitor and upgrades procedures to optimize the RLF.</b>	Time/Expense	Beginning once Task II.C is substantially complete. Projected duration TBD.
<b>II.E – General Municipal Advisory Services</b>		
<b>Review and document opportunities for expansion of the RLF or additional financing mechanisms on behalf of the County.</b>	Time/Expense	TBD
<b>Reimbursable Expenses</b>		
<b>Third-party consulting and reports.</b>	TBD	Except for the PCA, contracts with service providers will be held directly with the County.
<b>Travel expenses (estimated)</b>	\$1,600 per person per trip	In-person site visits, meetings, or presentations as requested by the County.

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We believe the foregoing correctly sets forth our understanding, but if you have questions, please let us know. If you find the arrangements acceptable, please acknowledge your agreement to this understanding by signing and returning to us a signed copy along with the retainer.

Sincerely,

BAKER TILLY ADVISORY GROUP, LP



Donald N. Bernards, CPA, Principal  
+1 (608) 240 2643 | [donald.bernards@bakertilly.com](mailto:donald.bernards@bakertilly.com)

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This letter and the attached Standard Business Terms correctly set forth the understanding of Huerfano County.

Accepted by: \_\_\_\_\_

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

# Baker Tilly Advisory Group, LP

## Standard Business Terms

These Standard Business Terms ("Terms") govern the services provided by Baker Tilly Advisory Group, LP (Baker Tilly, we, us or our) set forth in the letter defining the scope of work (the "Letter") to which these Terms are attached (the "Services"). These Terms and any applicable online terms and conditions or terms of use ("Online Terms") related to online products or services made available to Company by Baker Tilly ("Online Offering"), together with the Letter to which they are attached, constitute the entire understanding and agreement between the client identified on such Letter (the "Client") and Baker Tilly with respect to the Services described in the Letter (collectively, the Letter and these Terms are referred to as the "Agreement") and supersede and incorporate all prior or contemporaneous representations, understandings or agreements, and may not be modified or amended except by an agreement in writing signed between the parties hereto. For clarity and avoidance of doubt, the terms of this Engagement Letter govern Baker Tilly's provision of the services described herein, and the Online Terms govern Company's use of the Online Offering. This Agreement's provisions shall not be deemed modified or amended by the conduct of the parties. If there is a conflict between these Terms and the terms of any Letter, these Terms shall govern.

### **Section 1. Confidentiality**

With respect to this Agreement and any information supplied in connection with this Agreement and designated by the disclosing party (the "Disclosing Party") as "Confidential Information" either by marking it as "confidential" prior to disclosure to the receiving party (the "Recipient") or, if such information is disclosed orally or by inspection, then by indicating to the Recipient that the information is confidential at the time of disclosure and confirming in writing to the Recipient, the confidential nature of the information within ten (10) business days of such disclosure, the Recipient agrees to: (i) protect the Confidential Information in the same manner in which it protects its confidential information of like importance, but in no case using less than reasonable care; (ii) use the Confidential Information only to perform its obligations under this Agreement; and (iii) reproduce Confidential Information only as required to perform its obligations under this Agreement. This section shall not apply to information which is (A) publicly known, (B) already known to the recipient, (C) disclosed by Recipient to a third party without restriction, (D) independently developed, or (E) disclosed pursuant to legal requirement or order, or as is required by regulations or professional standards governing the Services performed. Subject to the foregoing, Baker Tilly may disclose Client's Confidential Information to its subcontractors and subsidiaries.

### **Section 2. Deliverables**

(a) Notwithstanding the above and solely with respect to ownership of deliverables in this Section, unless specified otherwise on the applicable Letter, materials specifically prepared by Baker Tilly for Client as a deliverable under a Letter (each a "Deliverable") may, when fully paid for by Client, be used, copied, distributed internally, and modified by Client but solely for its internal business purposes. Client shall not, without Baker Tilly's prior written consent, disclose to a third party, publicly quote or make reference to the Deliverables. Baker Tilly shall retain all right, title and interest in and to: (i) the Deliverables, including but not limited to, all patent, copyright, trademark and other intellectual property rights therein; and (ii) all methodologies, processes, techniques, ideas, concepts, trade secrets and know-how embodied in the Deliverables or that Baker Tilly may develop or supply in connection with this Agreement (the "Baker Tilly Knowledge"). Subject to the confidentiality restrictions contained in Section 1, Baker Tilly may use the Deliverables and the Baker Tilly Knowledge for any purpose.

(b) The documentation for this engagement, including the workpapers, is not part of the Deliverables, is the property of Baker Tilly and constitutes confidential information. We may have a responsibility to retain the documentation for a period of time sufficient to satisfy any applicable legal or regulatory requirements for records retention. Baker Tilly does not retain any original client records and we will return such records to you at the completion of the Services rendered under this engagement. When such records are returned to you, it is the Company's responsibility to retain and protect its accounting and other business records for future use, including potential review by any government or other regulatory agencies. By your signature below, you acknowledge and agree that, upon the expiration of the documentation retention period, Baker Tilly shall be free to destroy our workpapers related to this engagement. If we are required by law, regulation or professional standards to make certain documentation available to Regulators, Client hereby authorizes us to do so.

### **Section 3. Acceptance**

Client shall accept Deliverables which (i) substantially conform to the specifications in the Letter or (ii) where applicable, successfully complete the mutually agreed to acceptance test plan described in the Letter. Client will promptly give Baker Tilly written notification of any nonconformance of the Deliverables with such requirements (Nonconformance) within thirty (30) days following delivery of such Deliverables, and Baker Tilly shall have a reasonable period of time,

based on the severity and complexity of the Nonconformance, to correct the Nonconformance so that the Deliverables substantially conform to the specifications. If Client uses the Deliverable before acceptance, fails to promptly notify Baker Tilly of any Nonconformance within such 30-day period, or delays the beginning of acceptance testing more than five (5) business days past the agreed upon date for the start of such acceptance testing as specified or otherwise determined under the Letter, then the Deliverable shall be deemed irrevocably accepted by the Client.

### **Section 4. Standards of Performance**

Baker Tilly shall perform its Services in conformity with the terms expressly set forth in this Agreement. Accordingly, our Services shall be evaluated on our substantial conformance with such terms and standards. Any claim of nonconformance (and applicability of such standards) must be clearly and convincingly shown. Client acknowledges that the Services will involve the participation and cooperation of management and others of Client. Unless required by professional standards or Client and Baker Tilly otherwise agree in writing, Baker Tilly shall have no responsibility to update any of its work after its completion.

### **Section 5. Warranty**

(a) Each party represents and warrants to the other that it has full power and authority to enter into and perform this Agreement and any Letter entered into pursuant hereto and the person signing this Agreement or such Letter on behalf of each party hereto has been properly authorized and empowered to enter into this Agreement.

(b) Client warrants that it has the legal right and authority, and will continue to have the legal right and authority during the term of this Agreement, to operate, configure, provide, place, install, upgrade, add, maintain and repair (and authorize Baker Tilly to do any of the foregoing to the extent the same are included in the Services) the hardware, software and data that comprises any of Client's information technology system upon which or related to which Baker Tilly provides Services under this Agreement.

(c) Baker Tilly warrants that any Services that it provides to Client under this Agreement and any Letter will be performed in accordance with generally accepted industry standards of care and competence. Client's sole and exclusive remedy for a breach of Baker Tilly's warranty will be for Baker Tilly, in its sole discretion, to either: (i) use its reasonable commercial efforts to re-perform or correct the Services, or (ii) refund the fee Client paid for the Services that are in breach of Baker Tilly's warranty. Client must make a claim for breach of warranty in writing within thirty (30) days of the date that the Services that do not comply with Baker Tilly's warranty are performed. This warranty is voided in the event that Client makes alterations to the Services provided by Baker Tilly or to the environment in which the Services are used (including the physical, network and systems environments) that are not authorized in writing by Baker Tilly. If Client does not notify Baker Tilly of a breach of Baker Tilly's warranty during that 30-day period, Client will be deemed to have irrevocably accepted the Services.

(d) Baker Tilly does not warrant any third-party product (each, a Product). All Products are provided to Client by Baker Tilly "AS IS." Baker Tilly will, to the extent it is allowed to by its vendors, pass through any warranties and indemnifications provided by the manufacturer of the Product. Client, recognizing that Baker Tilly is not the manufacturer of any Product, expressly waives any claim that Client may have against Baker Tilly based upon any product liability or infringement or alleged infringement of any patent, copyright, trade secret or other intellectual property right (each a Claim) with respect to any Product and also waives any right to indemnification from Baker Tilly against any such Claim made against Client by another. Client acknowledges that no employee of Baker Tilly or any other party is authorized to make any representation or warranty on behalf of Baker Tilly that is not in this Agreement.



## Baker Tilly Advisory Group, LP Standard Business Terms (cont.)

(e) This section 5 is Baker Tilly's only warranty concerning the Services and any deliverable, and is made expressly in lieu of all other warranties and representations, express or implied, including any implied warranties of merchantability, ACCURACY, TITLE, noninfringement or fitness for a particular purpose, or otherwise.

### **Section 6. Limitation on Damages and Indemnification**

(a) The liability (including attorney's fees and all other costs) of Baker Tilly and its present or former partners, principals, agents or employees related to any claim for damages relating to the Services performed under this Agreement shall not exceed the fees paid to Baker Tilly for the portion of the work to which the claim relates, except to the extent finally determined to have resulted from the willful misconduct or fraudulent behavior of Baker Tilly relating to such Services. This limitation of liability is intended to apply to the full extent allowed by law, regardless of the grounds or nature of any claim asserted, including the negligence of either party. Additionally, in no event shall either party be liable for any lost profits, lost business opportunity, lost data, consequential, special, incidental, exemplary or punitive damages, delays, interruptions or viruses arising out of or related to this Agreement even if the other party has been advised of the possibility of such damages.

(b) As Baker Tilly is performing the Services solely for the benefit of Client, Client will indemnify Baker Tilly, its subsidiaries and their present or former partners, principals, employees, officers and agents against all costs, fees, expenses, damages and liabilities (including attorneys' fees and all defense costs) associated with any third-party claim, relating to or arising as a result of the Services, Client's use of the Deliverables, or this Agreement.

(c) In the event Baker Tilly is requested by the Client; or required by government regulation, subpoena or other legal process to produce our engagement working papers or its personnel as witnesses with respect to its Services rendered for the Client, so long as Baker Tilly is not a party to the proceeding in which the information is sought, Client will reimburse Baker Tilly for its professional time and expenses, as well as the fees and legal expenses, incurred in responding to such a request.

(d) Because of the importance of the information that Client provides to Baker Tilly with respect to Baker Tilly's ability to perform the Services, Client hereby releases Baker Tilly and its present and former partners, principals, agents and employees from any liability, damages, fees, expenses and costs, including attorney's fees, relating to the Services, that arise from or relate to any information, including representations by management, provided by Client, its personnel or agents, that is not complete, accurate or current, whether or not management knew or should have known that such information was not complete, accurate or current.

(e) Each party recognizes and agrees that the warranty disclaimers and liability and remedy limitations in this Agreement are material bargained for bases of this Agreement and that they have been taken into account and reflected in determining the consideration to be given by each party under this Agreement and in the decision by each party to enter into this Agreement.

(f) The terms of this Section 6 shall apply regardless of the nature of any claim asserted (including, but not limited to, contract, tort or any form of negligence, whether of Client, Baker Tilly or others), but these Terms shall not apply to the extent finally determined to be contrary to the applicable law or regulation. These Terms shall also continue to apply after any termination of this Agreement.

(g) Client accepts and acknowledges that any legal proceedings arising from or in conjunction with the Services provided under this Agreement must be commenced within twelve (12) months after the performance of the Services for which the action is brought, without consideration as to the time of discovery of any claim or any other statutes of limitations or repose.

### **Section 7. Personnel**

During the term of this Agreement, and for a period of six (6) months following the expiration or termination thereof, neither party will actively solicit the employment of the personnel of the other party involved directly with providing Services hereunder. Both parties acknowledge that the fee for hiring personnel from the other party, during the project term and within six months following completion, will be a fee equal to the hired person's annual salary at the time of the violation so as to reimburse the party for the costs of hiring and training a replacement.

### **Section 8. Data Privacy and Security**

(a) To the extent the Services require Baker Tilly to receive personal data or personal information from Client, Baker Tilly may process, and Consulting Terms

engage subcontractors to assist with processing, any personal data or personal information, as those terms are defined in applicable privacy laws. Baker Tilly's processing shall be in accordance with the requirements of the applicable privacy laws relevant to the processing in providing Services hereunder, including Services performed to meet the business purposes of the Client, such as Baker Tilly's tax, advisory, and other consulting services. Applicable privacy laws may include any local, state, federal or international laws, standards, guidelines, policies or regulations governing the collection, use, disclosure, sharing or other processing of personal data or personal information with which Baker Tilly or its Clients must comply. Such privacy laws may include (i) the EU General Data Protection Regulation 2016/679 (GDPR); (ii) the California Consumer Privacy Act of 2018 (CCPA); and/or (iii) other laws regulating marketing communications, requiring security breach notification, imposing minimum security requirements, requiring the secure disposal of records, and other similar requirements applicable to the processing of personal data or personal information. Baker Tilly is acting as a Service Provider/Data Processor, as those terms are defined respectively under the CCPA/GDPR, in relation to Client personal data and personal information. As a Service Provider/Data Processor processing personal data or personal information on behalf of Client, Baker Tilly shall, unless otherwise permitted by applicable privacy law, (a) follow Client instructions; (b) not sell personal data or personal information collected from the Client or share the personal data or personal information for purposes of targeted advertising; (c) process personal data or personal information solely for purposes related to the Client's engagement and not for Baker Tilly's own commercial purposes; and (d) cooperate with and provide reasonable assistance to Client to ensure compliance with applicable privacy laws. Client is responsible for notifying Baker Tilly of any applicable privacy laws the personal data or personal information provided to Baker Tilly is subject to, and Client represents and warrants it has all necessary authority (including any legally required consent from individuals) to transfer such information and authorize Baker Tilly to process such information in connection with the Services described herein. Client further understands Baker Tilly US, LLP and Baker Tilly Advisory Group, LP may co-process Client data as necessary to perform the Services, pursuant to the alternative practice structure in place between the two entities. Baker Tilly is responsible for notifying Client if Baker Tilly becomes aware that it can no longer comply with any applicable privacy law and, upon such notice, shall permit Client to take reasonable and appropriate steps to remediate personal data or personal information processing. Client agrees that Baker Tilly has the right to utilize Client data to improve internal processes and procedures and to generate aggregated/de-identified data from the data provided by Client to be used for Baker Tilly business purposes and with the outputs owned by Baker Tilly. For clarity, Baker Tilly will only disclose aggregated/de-identified data in a form that does not identify Client, Client employees, or any other individual or business entity and that is stripped of all persistent identifiers. Client is not responsible for Baker Tilly's use of aggregated/de-identified data.

(b) Baker Tilly has established information security related operational requirements that support the achievement of our information security commitments, relevant information security related laws and regulations, and other information security related system requirements. Such requirements are communicated in Baker Tilly's policies and procedures, system design documentation, and contracts with customers. Information security policies have been implemented that define our approach to how systems and data are protected. Client is responsible for providing timely written notification to Baker Tilly of any additions, changes or removals of access for Client personnel to Baker Tilly provided systems or applications. If Client becomes aware of any known or suspected information security or privacy related incidents or breaches related to this Agreement, Client should timely notify Baker Tilly via email at [dataprotectionofficer@bakertilly.com](mailto:dataprotectionofficer@bakertilly.com).

# Baker Tilly Advisory Group, LP

## Standard Business Terms (cont.)

### **Section 9. Termination**

(a) This Agreement may be terminated at any time by either party upon written notice to the other. However, upon termination of this Agreement, this Agreement will continue to remain in effect with respect to any Letter(s) already issued at the time of such termination, until such Letters are themselves either terminated or the performance thereunder is completed.

(b) This Agreement and all Letters may be terminated by either party effective immediately and without notice, upon: (i) the dissolution, termination of existence, liquidation or insolvency of the other party, (ii) the appointment of a custodian or receiver for the other party, (iii) the institution by or against the other party of any proceeding under the United States Bankruptcy Code or any other foreign, federal or state bankruptcy, receivership, insolvency or other similar law affecting the rights of creditors generally, or (iv) the making by the other party of any assignment for the benefit of creditors.

(c) Client shall pay Baker Tilly for all Services rendered and expenses incurred as of the date of termination, and shall reimburse Baker Tilly for all reasonable costs associated with any termination. In the event that collection procedures are required, the Company agrees to be responsible for all expenses of collection including related attorneys' fees.

(d) Any rights and duties of the parties that by their nature extend beyond the expiration or termination of this Agreement, including but not limited to, limitation of liability, confidentiality, ownership of work product, and survival of obligations, any accrued rights to payment and remedies for breach of this Agreement shall survive the expiration or termination of this Agreement or any Letter.

### **Section 10. Dispute Resolution**

(a) Except for disputes related to confidentiality or intellectual property rights, all disputes and controversies between the parties hereto of every kind and nature arising out of or in connection with this Agreement as to the existence, construction, validity, interpretation or meaning, performance, nonperformance, enforcement, operation, breach, continuation or termination of this Agreement shall be resolved as set forth in this Section using the following procedure: In the unlikely event that differences concerning the Services or fees should arise that are not resolved by mutual agreement, both parties agree to attempt in good faith to settle the dispute by engaging in mediation administered by the American Arbitration Association under its mediation rules for professional accounting and related services disputes before resorting to litigation or any other dispute-resolution procedure. Each party shall bear their own expenses from mediation and the fees and expenses of the mediator shall be shared equally by the parties. If the dispute is not resolved by mediation, then the parties agree that the dispute or claim shall be settled by binding arbitration. The arbitration proceeding shall take place in the city in which the Baker Tilly office providing the relevant Services is located, unless the parties mutually agree to a different location. The proceeding shall be governed by the provisions of the Federal Arbitration Act (FAA) and will proceed in accordance with the then current Arbitration Rules for Professional Accounting and Related Disputes of the AAA, except that no prehearing discovery shall be permitted unless specifically authorized by the arbitrator. The arbitrator will be selected from AAA, JAMS, the Center for Public Resources, or any other internationally or nationally-recognized organization mutually agreed upon by the parties. Potential arbitrator names will be exchanged within 15 days of the parties' agreement to settle the dispute or claim by binding arbitration, and arbitration will thereafter proceed expeditiously. Any issue concerning the extent to which any dispute is subject to arbitration, or concerning the applicability, interpretation or enforceability of any of these procedures, shall be governed by the FAA and resolved by the arbitrators. The arbitration will be conducted before a single arbitrator, experienced in accounting and auditing matters. The arbitrator shall have no authority to award nonmonetary or equitable relief and will not have the right to award punitive damages or statutory awards. Furthermore, in no event shall the arbitrator have power to make an award that would be inconsistent with the Engagement Letter or any amount that could not be made or imposed by a court deciding the matter in the same jurisdiction. The award of the arbitration shall be in writing and shall be accompanied by a well reasoned opinion. The award issued by the arbitrator may be confirmed in a judgment by any federal or state court of competent jurisdiction. Discovery shall be permitted in arbitration only to the extent, if any, expressly authorized by the arbitrator(s) upon a showing of substantial need. Each party shall be

responsible for their own costs associated with the arbitration, except that the costs of the arbitrator shall be equally divided by the parties. Both parties agree and acknowledge that they are each giving up the right to have any dispute heard in a court of law before a judge and a jury, as well as any appeal. The arbitration proceeding and all information disclosed during the arbitration shall be maintained as confidential, except as may be required for disclosure to professional or regulatory bodies or in a related confidential arbitration. The arbitrator(s) shall apply the limitations period that would be applied by a court deciding the matter in the same jurisdiction, including the contractual limitations set forth in this Engagement Letter, and shall have no power to decide the dispute in any manner not consistent with such limitations period. The arbitrator(s) shall be empowered to interpret the applicable statutes of limitations.

(b) Because a breach of any the provisions of this Agreement concerning confidentiality or intellectual property rights will irreparably harm the nonbreaching party, Client and Baker Tilly agree that if a party breaches any of its obligations thereunder, the nonbreaching party shall, without limiting its other rights or remedies, be entitled to seek equitable relief (including, but not limited to, injunctive relief) to enforce its rights thereunder, including without limitation protection of its proprietary rights. The parties agree that the parties need not invoke the mediation procedures set forth in this section in order to seek injunctive or declaratory relief.

### **Section 11. Force Majeure**

In the event that either party is prevented from performing, or is unable to perform, any of its obligations under this Agreement due to any act of God, fire, casualty, flood, war, strike, lock out, failure of public utilities, injunction or any act, exercise, assertion or requirement of any governmental authority, epidemic, destruction of production facilities, insurrection, inability to obtain labor, materials, equipment, transportation or energy sufficient to meet needs, or any other cause beyond the reasonable control of the party invoking this provision (**Force Majeure Event**), and if such party shall have used reasonable efforts to avoid such occurrence and minimize its duration and has given prompt written notice to the other party, then the affected party's failure to perform shall be excused and the period of performance shall be deemed extended to reflect such delay as agreed upon by the parties.

### **Section 12. Taxes**

Baker Tilly's fees are exclusive of any federal, national, regional, state, provincial or local taxes, including any VAT or other withholdings, imposed on this transaction, the fees, or on Client's use of the Services or possession of the Deliverable (individually or collectively, the Taxes). All applicable Taxes shall be paid by Client without deduction from any fees owed by Client to Baker Tilly. In the event Client fails to pay any Taxes when due, Client shall defend, indemnify, and hold harmless Baker Tilly, its officers, agents, employees and consultants from and against any and all fines, penalties, damages, costs (including, but not limited to, claims, liabilities or losses arising from or related to such failure by Client) and will pay any and all damages, as well as all costs, including, but not limited to, mediation and arbitration fees and expenses as well as attorneys' fees, associated with Client's breach of this Section 12.

### **Section 13. Notices**

Any notice or communication required or permitted under this Agreement or any Letter shall be in writing and shall be deemed received (i) on the date personally delivered; or (ii) the date of confirmed receipt if sent by Federal Express, DHL, UPS or any other reputable carrier service, to applicable party (sending it to the attention of the title of the person signing this Agreement) at the address specified on the signature page of this Agreement or such other address as either party may from time to time designate to the other using this procedure.

### **Section 14. Miscellaneous**

(a) This Agreement, any Letter(s) and any applicable Online Terms related to any "Online Offering" constitute the entire agreement between Baker Tilly and Client with respect to the subject matter hereof and supersede all prior agreements, promises, understandings and negotiations, whether written or oral, regarding the subject matter hereof. For clarity and avoidance of doubt, these Terms govern Baker Tilly's provision of the Services described herein, and the Online Terms govern Company's use of the Online Offering. No terms in any Client purchase order that are different from, or additional to, the terms of this Agreement will be accorded any legal effect and are specifically hereby objected to

## Baker Tilly Advisory Group, LP Standard Business Terms (cont.)

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by Baker Tilly. This Agreement and any Letter cannot be amended unless in writing and signed by duly authorized representatives of each party. Headings in this Agreement are included for convenience only and are not to be used to construe or interpret this Agreement.

(b) In the event that any provision of this Agreement or any Letter is held by a court of competent jurisdiction to be unenforceable because it is invalid or in conflict with any law of any relevant jurisdiction, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement or such Letter did not contain the particular provisions held to be unenforceable. The unenforceable provisions shall be replaced by mutually acceptable provisions which, being valid, legal and enforceable, come closest to the intention of the parties underlying the invalid or unenforceable provision. If the Services should become subject to the independence rules of the U.S. Securities and Exchange Commission with respect to Client, such that any provision of this Agreement would impair Baker Tilly's independence under its rules, such provision(s) shall be of no effect.

(c) Neither this Agreement, any Engagement Letter, any claims nor any rights or licenses granted hereunder may be assigned, delegated or subcontracted by Client without the written consent of Baker Tilly. Baker Tilly may assign and transfer this Agreement and any Letter to any successor that acquires all or substantially all of the business or assets of Baker Tilly by way of merger, consolidation, other business reorganization, or the sale of interests or assets.

(d) The validity, construction and enforcement of this Agreement shall be determined in accordance with the laws of the State of Illinois, without reference to its conflicts of laws principles, and any action (whether by arbitration or in court) arising under this Agreement shall be brought exclusively in the State of Illinois. Both parties consent to the personal jurisdiction of the state and federal courts located in Illinois.

(e) The parties hereto are independent contractors. Nothing herein shall be deemed to constitute either party as the representative, agent, partner or joint venture of the other. Baker Tilly shall have no authority to bind Client to any third-party agreement. Though the Services may include Baker Tilly's advice and recommendations, all decisions regarding the implementation of such advice or recommendations shall be the responsibility of, and made by, Client.

(f) The failure of either party at any time to enforce any of the provisions of this Agreement or a Letter will in no way be construed as a waiver of

such provisions and will not affect the right of party thereafter to enforce each and every provision thereof in accordance with its terms.

(g) Client acknowledges that: (i) Baker Tilly and Client may correspond or convey documentation via Internet e-mail unless Client expressly requests otherwise, (ii) neither party has control over the performance, reliability, availability or security of Internet e-mail, and (iii) Baker Tilly shall not be liable for any loss, damage, expense, harm or inconvenience resulting from the loss, delay, interception, corruption or alteration of any Internet e-mail.

(h) Except to the extent expressly provided to the contrary, no third-party beneficiaries are intended under this Agreement.

(i) The Services performed under this Agreement do not include the provision of legal advice and Baker Tilly makes no representations regarding questions of legal interpretation. Client should consult with its attorneys with respect to any legal matters or items that require legal interpretation under federal, state or other type of law or regulation.

(j) Baker Tilly US, LLP and Baker Tilly Advisory Group, LP and its subsidiary entities provide professional services through an alternative practice structure in accordance with the AICPA Code of Professional Conduct and applicable laws, regulations and professional standards. Baker Tilly US, LLP is a licensed independent CPA firm that provides attest services to clients. Baker Tilly Advisory Group, LP and its subsidiary entities provide tax and business advisory services to their clients. Baker Tilly Advisory Group, LP and its subsidiary entities are not licensed CPA firms. Baker Tilly Advisory Group, LP and its subsidiaries and Baker Tilly US, LLP are independent members of Baker Tilly International. Baker Tilly International Limited is an English company. Baker Tilly International provides no professional services to clients.

Each member firm is a separate and independent legal entity and each describes itself as such. Baker Tilly Advisory Group, LP and Baker Tilly US, LLP are not Baker Tilly International's agents and do not have the authority to bind Baker Tilly International or act on Baker Tilly International's behalf. None of Baker Tilly International, Baker Tilly Advisory Group, LP, Baker Tilly US, LLP, nor any of the other member firms of Baker Tilly International has any liability for each other's acts or omissions. The name Baker Tilly and its associated logo is used under license from Baker Tilly International Limited.

*Acknowledgement:*

The Business Terms above correctly sets forth the understanding of the Client.

*Accepted by:*

Signature:

Name:

Title:

Date: