CITY OF STOUGHTON, 381 E. MAIN ST., STOUGHTON WI 53589

RESOLUTION OF THE COMMON COUNCIL

Authorizing and directing the proper city official(s) to approve an expense not to exceed $58,500 from the Accounting Department payroll fund and possibly contingency fund for interim Finance Director Services from Baker Tilly.

Committee Action:	Approved by the Personnel Committee 4-0 on June 4, 2018 and Finance meets June 12, 2018.
Fiscal Impact:	Not to exceed $58,500 from the Accounting Budget and contingency fund, if necessary.

File Number:	R-113-2018	**Date Introduced:**	June 12, 2018

WHEREAS, Finance Director LaBorde terminated employment as of May 25, 2018. Baker Tilly (City of Stoughton's Auditing Firm) has provided an engagement letter to provide interim Finance Director Services through August 31, 2018 or until a Finance Director is hired at the cost of $200/hour.

WHEREAS, the City of Stoughton has outlined the scope of financial services required. The engagement letter from Baker Tilly includes an estimated average of 12-20 hours per week of services both onsite and remotely. Travel time is at 50% of the billable rate.

WHEREAS, the cost for the interim Finance Director Services would be set at a not to exceed amount of $58,500.

20 hours/week for thirteen weeks
$200 x 20 hours= $4000/week
$4000 x 13 weeks= $52,000
Travel 2X's per week @ $250= $500 X 13 weeks= $6500
TOTAL= $58,500

BE IT RESOLVED by the Common Council of the City of Stoughton that the proper city official(s) be hereby directed and authorized to approve a not to exceed amount of $58,500 from the Accounting Department Personnel fund and contingency, if needed, for the interim Finance Director Services rendered by Baker Tilly.

Council Action: ☐ **Adopted** ☐ **Failed** **Vote** _____

Mayoral Action: ☐ **Accept** ☐ **Veto**

_____
Tim Swadley, Mayor Date

Council Action: _____ ☐ **Override** **Vote** _____

BAKER TILLY

Baker Tilly Virchow Krause, LLP
777 E Wisconsin Ave, 32nd Floor
Milwaukee, WI 53202-5313
tel 414 777 5500
fax 414 777 5555
bakertilly.com

May 30, 2018

Ms. AmyJo Gillingham
Director of Human Resources & Risk Management
City of Stoughton
381 E. Main Street
Stoughton, WI 53589

Dear Ms. Gillingham:

Thank you for engaging Baker Tilly Virchow Krause, LLP ("Baker Tilly" or "we" or "our") to assist the City of Stoughton ("the City", "Client") with the project as described below. We appreciate the opportunity to serve City.

The purpose of this letter (the "Engagement Letter") is to confirm our understanding of the terms and objectives of this engagement and the nature of the services we will provide as consultants of the City.

Services

The services ("Services") we provide under this Engagement Letter will be directed by Client's management. The types of Services to be provided are as follows:

Based on our discussions, the table below outlines the services we will provide related to the vacancy in the City's Finance Director Position.

- Provide feedback to facilitate management's review / approval of
  - Monthly Bank Reconciliations
  - Payroll and General Disbursement transactions
  - Journal Entries
- Analyze general ledger to provide feedback to management for consideration of any proposed adjustments
- Assist with 2019 budget worksheet and computations
- Assist in compiling financial information in support of the Mayor and/or department heads.
- Provide feedback on City's organizational structure in regards to the central accounting function of the City and/or Utility's.
- Participate in the interviewing process for the Finance Director Position and will provide feedback to management on potential hires. We will not provide a recommendation of who to hire.

The services listed above will be provided starting June 1, 2018 through August 31, 2018. We will provide an individual from our State and Local Government practice during this period. That individual will on average provide 12-20 hours per week of services both onsite and remotely. We will communicate our planned availability appropriately with the City as they are determined. During our timeframe listed above, the individual assigned (Paul Frantz, CPA, Senior Manager) to your work will be unavailable June 28 – July 6 and August 6 – 13. He will coordinate how best to continue to keep operations moving appropriately while unavailable.

For these services, the City will be billed for time incurred at an hourly rate of $200, which has been discounted from our standard hourly rates. In addition, the City will be responsible for travel time (billed at 50% of our hourly rate) and related travel costs. Invoices for these fees will be rendered monthly and are payable on presentation. In the event a unique or complex issue arises, we will work with you to determine the level of assistance required and arrange an appropriate fee for our services. We will tell you if the assistance you require is outside the scope of our agreed-upon engagement.

None of these services can be relied on to detect errors, fraud, or illegal acts that may exist; however, we will inform the appropriate level of management of any material errors that come to our attention and any fraud or illegal acts that come to our attention, unless they are clearly inconsequential. In addition, we have no responsibility to identify and communicate significant deficiencies or material weaknesses in your internal controls as part of this engagement. Our services under this contract do not constitute an audit of any information. We will not be verifying the accuracy of underlying data or your internal records.

Management Responsibilities

Management is responsible for making available to us, on a timely basis, all of the client's original accounting records and related information and for the completeness and accuracy of that information, and client personnel to whom we may direct inquiries.

> Management is responsible for recording all transactions into the client's general ledger including, but not limited to cash disbursements; cash receipts; and general, adjusting, or correcting journal entries.

> Management shall be solely responsible for reviewing and approving any and all work we perform.

> Because of the importance of oral and written representations to an effective project, the City releases Baker Tilly and its current, former or future partners, principals, employees and personnel from any and all claims, liabilities, costs and expenses attributable to any misrepresentations by management.

> The terms of this agreement shall apply to any claims of any kind, including, but not limited it, contract, tort, or negligence of any party, including the City or Baker Tilly.

Non-Attest Services

The services that we will be providing are non-attest services. To ensure that our independence is maintained with respect to the financial audit, it is your responsibility to review our work in addition to understanding the nature of our work.

We will not perform any management functions or make management decisions on your behalf with respect to any non-attest services we provide. In addition, we will not enter transactions into the City's general ledger, approve City transactions or supervise City staff.

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 our work product when it is 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.

Legal Terms

In no event shall either party be liable for any punitive damages arising out of or related to this Engagement Letter, even if the other party has been advised of the possibility of such damages.

Resolution of Disagreements

In the unlikely event that differences concerning 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 mediation administered by the American Arbitration Association (AAA) 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.

If mediation does not settle the dispute or claim, 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 pre-hearing discovery shall be permitted unless specifically authorized by the arbitrator. The arbitrator will be selected from AAA, Judicial Arbitration & Mediation Services (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 fifteen (15) days of the parties' agreement to settle the dispute or claim by binding arbitration, and arbitration will thereafter proceed expeditiously. The arbitration will be conducted before a single arbitrator, experienced in accounting and auditing matters. The arbitrator shall have no authority to award non-monetary or equitable relief and will not have the right to award punitive damages. 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. 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. 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. In no event shall a demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim would be barred under the applicable statute of limitations.

Our services shall be evaluated solely on our substantial conformance with the terms expressly set forth herein, including all applicable professional standards. Any claim of nonconformance must be clearly and convincingly shown.

Limitation on Damages and Indemnification

Because of the importance of the information that you provide to Baker Tilly with respect to Baker Tilly's ability to perform the services, you hereby release 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 you, City of Stoughton personnel or agents, that is not complete, accurate or current.

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

The terms of this section shall apply regardless of the nature of any claim asserted (including, but not limited to, contract, tort or any form of negligence, whether of you, 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 Engagement Letter.

Other Matters

Because the services we provide may prove to be useful to the City in situations where the City is involved in investigations or litigation that does not involve Baker Tilly Virchow Krause, LLP, our assistance may be necessary. Therefore, in the event we are requested or authorized by the City, or required by government regulation, subpoena, or other legal process to produce our working papers or our personnel as witnesses with respect to our engagement for the City of Stoughton, Wisconsin will, so long as we are not a party to the proceeding in which the information is sought, reimburse us for our reasonable professional time and expenses, as well as the reasonable fees and expenses of our counsel, incurred in responding to such a request.

Neither this Engagement Letter, any claim, nor any rights or licenses granted hereunder may be assigned, delegated or subcontracted by either party without the written consent of the other party. Either party may assign and transfer this Engagement Letter to any successor that acquires all or substantially all of the business or assets of such party by way of merger, consolidation, other business reorganization, or the sale of interest or assets, provided that the party notifies the other party in writing of such assignment and the successor agrees in writing to be bound by the terms and conditions of this Engagement Letter.

Baker Tilly Virchow Krause, LLP is an independent member 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 Virchow Krause, LLP is not Baker Tilly International's agent and does not have the authority to bind Baker Tilly International or act on Baker Tilly International's behalf. None of Baker Tilly International, Baker Tilly Virchow Krause, 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.

This Engagement Letter constitutes the entire agreement between the City and Baker Tilly regarding the services described in this Engagement Letter and supersedes and incorporates 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.

The provisions of this Engagement Letter, which expressly or by implication are intended to survive its termination or expiration, will survive and continue to bind both parties. If any provision of this Engagement Letter is declared or found to be illegal, unenforceable or void, then both parties shall be relieved of all obligations arising under such provision, but if the remainder of this Engagement Letter shall not be affected by such declaration or finding and is capable of substantial performance, then each provision not so affected shall be enforced to the extent permitted by law or applicable professional standards.

If because of a change in the City's status or due to any other reason, any provision in this Engagement Letter would be prohibited by, or would impair our independence under laws, regulations or published interpretations by governmental bodies, commissions or other regulatory agencies, such provision shall, to that extent, be of no further force and effect and this agreement shall consist of the remaining portions.

This agreement shall be governed by and construed in accordance with the laws of the state of Wisconsin, without giving effect to the provisions relating to conflict of laws.

We appreciate the opportunity to be of service to you.

If there are any questions regarding the Engagement Letter, please contact Wendi Unger, the engagement partner on this engagement who is responsible for the overall supervision and review of the engagement and determining that the engagement has been completed in accordance with professional standards. Wendi Unger is available at 414 777 5423 or wendi.unger@bakertilly.com.

Sincerely,

BAKER TILLY VIRCHOW KRAUSE, LLP

Baker Tilly Virchow Krause, LLP

Enclosures

The services and terms set forth in the Engagement Letter are agreed to by:

_____
Official's Name

_____
Official's Signature

_____
Title

_____
Date

Baker Tilly Virchow Krause, LLP
Standard Business Terms

These Standard Business Terms ("Terms") govern the services provided by Baker Tilly Virchow Krause, LLP ("Baker Tilly", "we", "us" or "our") set forth in the Engagement Letter to which these Terms are attached (the "Services"). These Terms, together with the Engagement Letter to which they are attached, constitute the entire understanding and agreement between the client identified on such Engagement Letter (the "Client") and Baker Tilly with respect to the Services described in the Engagement Letter (collectively, the Engagement 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. If there is a conflict between these Terms and the terms of any Engagement Letter, these Terms shall govern.

Section 1. Deliverables

(a) Materials specifically prepared by Baker Tilly for Client as a deliverable under a Engagement 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 any confidentiality restrictions, 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. 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 2. Standards of Performance

Baker Tilly shall perform its Services in conformity with the terms expressly set forth in this Agreement, including all applicable professional standards. 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 3. 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 Engagement Letter entered into pursuant hereto and the person signing this Agreement or such Engagement Letter on behalf of each party hereto has been properly authorized and empowered to enter into this Agreement.

(b) Baker Tilly warrants that it will perform its services on a reasonable professional efforts basis. This warranty is in lieu of, and we expressly disclaim, all other warranties, express, implied or otherwise, including without limitation any implied warranties of merchantability or fitness for a particular purpose. We cannot and do not warrant computer hardware, software or services provided by other parties.

Section 4. Limitation on Damages and Indemnification

(a) The liability 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 four (4) times the annual fees paid to Baker Tilly for accounting services as outlined in the engagement letter, except to the extent finally determined to have resulted from the gross negligence, willful misconduct or fraudulent behavior of Baker Tilly relating to such service. 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 arising out of or related to this Agreement.

(b) This section intentionally left blank.

(c) In the event Baker Tilly is requested by the Client; or required by government regulation, subpoena, or other legal process to produce its 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 attorneys 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.

(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 4 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.

Section 5. 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 6. 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 Statement(s) of Work already issued at the time of such termination, until such Statements of Work are themselves either terminated or the performance there under is completed.

(b) This Agreement and all Statements of Work 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.

(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, 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 Engagement Letter.

Section 7. Dispute Resolution

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 pre-hearing 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. The arbitration will be conducted before a single arbitrator, experienced in accounting and auditing matters. The arbitrator shall have no authority to award non-monetary or equitable relief and will not have the right to award punitive damages. 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. 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. 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. In no event shall a demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim would be barred under the applicable statute of limitations.

Section 8. 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 9. 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 of which 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.

Section 10. Notices

Any notice or communication required or permitted under this Agreement or any Engagement Letter shall be in writing and shall be deemed received (i) on the date personally delivered; or 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. (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.

Section 11. Miscellaneous

(a) In the event that any provision of this Agreement or any Engagement 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 Engagement 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.

(b) Neither this Agreement, any Engagement Letter, any claim, nor any rights or licenses granted hereunder may be assigned, delegated or subcontracted by either party without the written consent of the other party. Either party may assign and transfer this Agreement and any Engagement Letter to any successor that acquires all or substantially all of the business or assets of such party by way of merger, consolidation, other business reorganization, or the sale of interests or assets, provided that the party notifies the other party in writing of such assignment and the successor agrees in writing to be bound by the terms and conditions of this Agreement.

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

(d) 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.

(e) The failure of either party at any time to enforce any of the provisions of this Agreement or a Engagement Letter will in no way be construed as a waiver of such provisions and will not affect the right of the party thereafter to enforce each and every provision thereof in accordance with its terms.

(f) 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.

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

(h) Baker Tilly Virchow Krause, LLP is a member of Baker Tilly International Limited. Each member firm of Baker Tilly International Limited is a separate and independent legal entity. Baker Tilly International Limited and its other members are not responsible or liable for any acts or omissions of Baker Tilly Virchow Krause, LLP. Baker Tilly Virchow Krause, LLP and its subsidiaries are not responsible or liable for any acts or omissions of any other member of Baker Tilly International Limited. Baker Tilly International Limited does not render any professional services and does not have an ownership or partnership interest in Baker Tilly Virchow Krause, LLP.

Baker Tilly International Limited is an English Company. Neither Baker Tilly International Limited nor any other member firm has a right to exercise management control over any other member firm. Baker Tilly Virchow Krause, LLP is not Baker Tilly International Limited's agent and does not have authority to bind Baker Tilly International Limited or act on Baker Tilly International Limited's behalf.

Acknowledgement:

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

Accepted by:

Signature:_____

Title: _____

Date:_____