



## INDEPENDENT ADMINISTRATIVE SERVICES AGREEMENT

This Professional Services Agreement (this “Agreement”) is entered into as of the \_\_\_\_ day of \_\_\_\_\_, 202\_ (hereinafter the “Effective Date”), by and between Hart Halsey LLC dba Extra Duty Solutions, with principal office at 1 Waterview Dr, Suite 101, Shelton CT 06484 (hereinafter “Company”), and \_\_\_\_\_, with principal offices at \_\_\_\_\_ (hereinafter “Client”).

### W I T N E S S E T H:

WHEREAS, the Client desires to retain the Company to provide certain services to the Client on the terms and conditions hereinafter set forth, and the Company desires to continue to perform such services on such terms and conditions;

WHEREAS the parties intend for any off-duty work an officer performs under the terms of this Agreement to comply fully with North Carolina, federal, and local laws, as well as with all rules and regulations of the Client and the Hendersonville Police Department;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein, the parties hereto do hereby agree as follows:

1. Administrative Services. Subject to the terms and conditions hereof, the Client hereby engages and appoints the Company to administrate the Client’s off-duty program At all times, the officers will be acting primarily in a law-enforcement capacity, subject to the direction and control of the Hendersonville Police Department with respect to actions taken in a law enforcement capacity. As used herein, “Off-Duty Assignments” shall mean assignments, scheduled by the Company, to provide services to a non-City premises or event, that are conditional upon the actual or potential use of law enforcement powers by the sworn officer, and in which the officer is primarily performing traditional law enforcement duties, including but not limited to peace-keeping, security, patrol, pursuit, investigation, crowd control, traffic control, and other similar duties. Company’s services under this Agreement will entail:
  - I. Maintaining contact with individuals and representatives of companies, organizations and institutions who wish to hire officers to work Off-Duty Assignments (hereinafter “Customers”) via website interaction, and communicating with the Customers via phone or email to explain program rules and rates, vet new customers per department’s guidelines, execute the

new customer process, receive requests for Off-Duty Assignments, confirm Off-Duty Assignment details and to gather and communicate any related pertinent information and feedback.

- II. Scheduling Off-Duty Assignments with off-duty Client police officers in a manner consistent with Client's Police Department rules, including but not limited to the City of Hendersonville General Order 211-21, Extra-Duty, Off-Duty, and Secondary Employment, the terms of which are incorporated herein by reference, including amendments made by the City and communicated in writing to the Company. Email shall be considered to be a written communication for this purpose. Company shall communicate as needed with the off-duty officers to confirm detail assignment scheduling and details worked. Off-duty Assignments shall only be contracted for events or premises within the law enforcement jurisdiction of the City.
- III. Invoicing Customers and following-up on invoice collections in a manner agreed upon with department leadership.
- IV. Ensuring administrative services comply with the Client's Extra Duty, Off Duty, and Secondary Employment Policy, General Order 211-21.
- V. Pay Client Officer's directly for Off-Duty Assignments performed Company, via check and/or direct deposit.
- VI. Collect, from Customers, and pay to the Client within payments detailed in Section 1.IV, any Client administrative fees at a level specified by the Client.
- VII. Manage the feedback loop i.e., initiate and field feedback from Customers (good and bad) then share with the Client Police Department personnel in a timely manner
- VIII. Provide Client's Police Department leadership with appropriate reporting and transparency into the program on an on-going basis.
- IX. Company shall pay to Client all administrative fees within 30 days after Off-Duty Assignments have been performed by the off-duty officers. Additionally, invoice remittance timing will not affect the timing of payments made to the individual officers for the Off-Duty Assignments performed.

## 2. Term

The term of the engagement shall commence on the Effective Date and continue month-to-month unless terminated by either party. Either party may terminate this Agreement upon thirty (30) days' prior written notice to the other party.

## 3. Payment and Invoicing Terms.

In consideration for all services which the Company shall render to the Client pursuant to this Agreement, the Company shall charge the Customer an administration fee of 15%. 5% of the administration fee shall be remitted to the Client to cover Client's costs associated with allowing Client's officers to engage in Off-Duty Assignments for the Company pursuant to this Agreement. The Company shall only charge the Customer in accordance with a fee schedule approved by the Client. Any fees paid by the Customer for City-owned equipment, assets and supplies such as flares, cruiser fees, K-9 fees, etc., shall be remitted to the City; however the 10% administration fee being retained by the Company may be applied to all off-duty revenue including, but not limited to, officer pay, cruiser fees, K9 fees, flare fees, etc.

#### 4. Changes

Client may, with approval of the Company, change the scope of services to be offered. Such changes shall be made in writing and accepted by the Company in writing.

#### 5. Standard of Care

- a) The Company warrants Company's services shall be performed by personnel possessing competency consistent with applicable industry standards in and around the City of Hendersonville.
- b) Manner of performance by Company
  - I. Company shall appoint a member of its staff to be the single primary responsible individual for delivering Company's services to Client under this Agreement.
  - II. Company shall keep complete and systematic records of all services provided to Client and to Customers. Such records shall include any records relevant to any costs, expenses, or payments incurred or made by Company in performing this Agreement, any financial records, procedures, and such other documentation pertaining to Company's performance under this Agreement. Company shall preserve all such records for the longest of the following two periods: (i) a term of 5 years after termination of this Agreement or (ii) in accordance with the record retention period mandated by any applicable law for Client records of similar type. If a legal matter arises requiring preservation of certain records, Company shall suspend destruction of such records as requested by Client or any governmental body. During the term of this Agreement and, thereafter, in accordance with the applicable record retention period, Client shall have the right to inspect, copy, and audit those records identified in this Section 5.b.ii during regular business hours.
  - III. Company shall successfully complete a SERVICE ORGANIZATIONAL CONTROL (SOC) 1 type II audit on no less than a bi-annual cadence. Resulting auditor reports will be made available to Client upon request at any time.

- IV. Company shall store any electronic information received in the performance of this Agreement on servers which are housed and maintained in ISO 27001 certified and CJIS (Criminal Justice Information Services) compliant data centers.
- V. Individuals performing services to the the Client detailed in Section 1.I must be W2 employees of the Company and, collectively, be available 24/7/365.

6. Insurance.

6.1 General. Without limiting any obligations or liabilities of the Company, the Company shall purchase and maintain, at its own expense the minimum insurance coverage listed in Section 7 with insurance companies duly licensed in the Client's State (admitted insurer) with an AM Best, Inc. rating of A-X (10) or above and an equivalent qualified unlicensed insurer by the State (non-admitted insurer). Failure to maintain insurance as specified may result in termination of this Agreement at the Client's option.

6.2 No Representation of Coverage Adequacy. By requiring insurance herein, the Client does not represent that coverage and limits will be adequate to protect the Company. The Client reserves the right to review all of the insurance policies and/or endorsements cited in this Agreement but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve the Company from, nor be construed or deemed a waiver of, its obligation to always maintain the required insurance during the performance of this Agreement.

6.3 Additional Insured. All insurance coverage and self-insured retention or deductible portions, except Worker's Compensation insurance and Professional Liability insurance if applicable, shall name, by endorsement to the policy, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, the Client, its officers, employees, and elected officials, including the officers performing the Off-Duty Assignments, as Additional Insured as specified under the respective coverage sections of this Agreement.

6.4 Coverage Term. All insurance required herein shall be maintained in full force and effect until all Services required to be performed under the terms of this Agreement is satisfactorily performed, completed, and formally accepted by the Client, unless specified otherwise in this Agreement.

6.5 Primary Insurance. The Company's insurance shall be primary insurance as respects performance of subject Agreement and in the protection of the Client as an Additional Insured.

6.6 Claims Made. In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for three (3) years past completion and acceptance of the Services evidenced by submission of annual Certificates of Insurance citing applicable coverage is in force and contains the provisions as required herein for the three-year period.

6.7 Waiver. The Commercial General Liability and Business Automobile policies shall contain a waiver of rights of recovery (subrogation) against the Client, its agents, representatives, officials, directors, officers, and employees for any claims arising out of the Services of the Company. The Company shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement hereto.

6.8 Policy Deductibles and or Self-Insured Retentions. The policies requirements set forth above may provide coverage that contain deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provide to the Client. The Company shall be solely responsible for any such deductible or self-insured retention amount.

6.9 Use of Subcontractor. If any Services under this Agreement are subcontracted in any way, the Company shall execute written agreement with Subcontractor containing the same Indemnification Clause and Insurance Requirements set forth herein protecting the Client and the Company. The Company shall be responsible for executing the agreement with Subcontractor and obtaining Certificates of Insurance verifying the insurance requirements.

6.10 Evidence of Insurance. Prior to commencing any Services under this Agreement, Company shall furnish Client with Certificate(s) of Insurance, and copies of any endorsements required by the Client, issued by Company's Insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverage's, conditions, and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. Acceptance and reliance by the Client on a Certificate of Insurance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. Such Certificate(s) shall identify the Company and be sent to the appropriate Client representative. If any of the above cited policies expire during the life of this Agreement, it shall be the Company's responsibility to forward renewal Certificates within ten (10) days after the renewal date containing all the aforementioned insurance provisions. Certificates shall specifically include the following provisions:

- a) The Client, its agents, representatives, officers, directors, officials, and employees are Additional Insureds as follows:
  - I Commercial General Liability ISO Form CG 20 10 04 13 or equivalent.
  - II Auto Liability under ISO Form CA 20 48 or equivalent.
  - III Excess Liability Follow Form to underlying insurance.
- b) Company's insurance shall be primary insurance as respects performance of this Agreement.
- c) All Commercial General Liability, Automobile and Excess Liability policies waive rights of recovery (subrogation) against the Client, its agents, representatives, officers, directors, officials, and employees for any claims arising out of Services performed by the Company under this Agreement.
- d) Certificate shall cite a thirty (30) day advance notice cancellation provision.

## 7. Required Insurance Coverage

- a) Commercial General Liability Insurance. Company shall maintain “occurrence” from Commercial Liability Insurance with an limit of not less than Six Million Dollars (\$6,000,000) for each occurrence, Before this Contract is fully executed by the parties, Company shall provide the Client with a certificate of insurance as proof of commercial liability insurance with a minimum liability limit of Six Million Dollars (\$6,000,000.00) per occurrence combined single limit bodily injury and property damage, and Seven Million Dollars (\$7,000,000.00) general aggregate. A combination with an excess or umbrella policy may be used to achieve limits. The certificate shall clearly state who the provider is, the coverage amount, the policy number, and when the policy and provisions provided are in effect. Said policy shall be in effect for the duration of this Contract. The insurance shall be with an insurance company or companies rated A-X or higher in AM Best’s.
- b) Professional Liability Insurance. Company shall maintain Professional Liability insurance covering errors and omissions arising out of the Services performed by Company, or anyone employed by Company, or anyone for whose acts, mistakes, errors and omissions Company is legally liable, with an liability insurance limit of Three Million Dollars (\$3,000,000) each claims and Three Million Dollars (\$3,000,000) aggregate all claims. Professional Liability coverage specifically shall contain contractual liability insurance covering the contractual obligations of this Agreement. The certificate shall clearly state who the provider is, the amount of coverage, the policy number, and when the policy and provisions provided are in effect. The insurance shall be with an insurance company or companies rated A-VII or higher by AM Best. In the event the Professional Liability insurance policy is written on a “claims made” basis, coverage shall extend for three (3) years past completion and acceptance of the Services, and Company shall be required to submit Certificates of Insurance’s evidencing proper coverage is in effect as required above.
- c) Data Breach and Privacy Security. Company shall maintain first party data breach coverage, with third party privacy liability and third-party network security liability covered. Policy will cover regulatory defense, fines and penalties, compensatory awards, PCI fines, penalties and assessments, computer forensics, notification costs and credit or ID protection costs with a limit of One Million Dollars (\$1,000,000) per occurrence and aggregate.
- d) Employee Theft. Company shall maintain employee theft coverage including protection against forgery and alteration, inside and outside premises loss, computer funds transfer loss and theft of customer property. Policy coverage includes theft of monies owed to Client for employee payroll, Client off-duty administrative fees and Client cruiser fees. Liability limit shall be at least Five Hundred Thousand Dollars (\$500,000).
- e) Automobile Liability. Company shall maintain Business Automobile Liability Insurance with a limit of One Million Dollars (\$1,000,000) per occurrence on Company’s owned, hired, and non-owned vehicles used in the performance of the

Company's Services under this Agreement. Coverage will be at least as broad as Insurance Service Office, Inc., coverage code "1" or any auto policy form CA 00 01 10 13 or equivalent thereof. The Client, its agents, representative, officers, directors, officials, and employees shall be cited as Additional Insureds under the Insurance Service Offices, Inc. Business Auto Policy Designated Insured Endorsement form CA 20 48 or equivalent. If any Excess insurance is utilized to fulfill the requirements of this paragraph, such Excess insurance shall be "follow form" equal or broader in coverage than the underlying insurance.

- f) Worker's Compensation Insurance. The Company shall maintain Worker's Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of the Company's employees engaged in the performance of Services under this Agreement and shall also maintain Employer Liability Insurance of not less than One Million Dollars (\$1,000,000) for each accident, One Million Dollars (\$1,000,000) disease for each employee and One Million Dollars (\$1,000,000) disease policy limit.

All officers performing Off-Duty Assignments will be covered under the Company's worker's compensation insurance while performing Off-Duty Assignments paid for and scheduled by the Company. The City will also maintain workers compensation on the officers to cover them to the extent that they are performing traditional law enforcement duties while performing Off-Duty Assignments. The parties acknowledge that ultimately, coverage questions will be determined by the insurance providers, the North Carolina Industrial Commission, and the North Carolina courts, and not the Company or the Client. Company may charge Customers an additional administration fee to cover the market rate of the worker's compensation insurance. The rate may change on an annual basis with the cost of worker's compensation insurance and is in addition to the administration fee detailed in Section 3. The rate as of the Effective Date is 5.5%.

The parties agree that: (1) Off-Duty Assignments performed by officers under the terms of this Agreement are of the same nature as work performed by officers while on-duty for Client, and (2) Company shall exercise direction and control only with respect to scheduling and management of the Off-Duty Assignments of the Officers, consistent with HPD policies.

#### 8. Independent Contractor

Client acknowledges that the Company is an independent contractor for the City and, as such, shall be responsible for all taxes and other expenses attributable to the rendering of its administrative services hereunder to Client. This Agreement is not intended to and shall not be construed to; create a joint venture, partnership, or employer/employee relationship as between the parties. Neither the Company nor its employees or agents shall look to Client for vacation pay, sick leave, retirement benefits, Social Security, disability or unemployment insurance benefits, or other employee benefits; nor shall the Client, or their respective employees or agents look to Company for the same. Neither Company nor Client shall be or become liable or bound by any representation, act, or omission whatsoever of the other made contrary to the provisions of this Agreement. Client acknowledges that its officers shall at no time be considered to be employees of Company.

9. Limitation of Liability.

Notwithstanding anything to the contrary in this Agreement, neither party shall be liable to the other for any special, indirect consequential, lost profits or punitive damages.

10. Indemnification Terms.

10.1 Indemnification. To the fullest extent permitted by law, the Company, its successors, assigns and guarantors, shall pay, defend, indemnify and hold harmless the Client, its agents, officers, officials and employees from and against all demands, claims, proceedings, suits damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), and all claim adjustment and handling expenses, to the extent relating to, arising out of, or resulted from the negligent acts, errors, mistakes or omissions, of the Company, its agents, employees or any tier of Company's subcontractors related to the Services in the performance of this Agreement. Company's duty to defend, hold harmless and indemnify the Client, its agents, officers, officials, and employees as set forth above shall arise only in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness disease, death or injury to, impairment, or destruction of property including loss of use of resulting therefrom.

10.2 Insurance Independence. Insurance provisions set forth in this Agreement are separate and independent from the indemnity provisions of this paragraph and shall not be construed in any way to limit the scope and magnitude of the indemnity provisions. The indemnity provisions of this paragraph shall not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions.

11. Exclusive Use of Services. The Services agreed to be provided by the Company within this Agreement are for the exclusive use of the Client and the Company shall not engage in conflict of interest nor appropriate Client work product or information for the benefit of any third party without consent of the Client. Specifically, THE COMPANY AGREES THEY HAVE NOT AND WILL NOT SIGN SUPPLIER AGREEMENTS OR INDEMNIFY OFF-DUTY CUSTOMERS OF THE CLIENT AT ANY TIME PRIOR TO EXECUTING THIS AGREEMENT OR DURING THE LIFE OF THIS AGREEMENT.

12. Severability.

Should any part of this Agreement for any reason be declared invalid, such decision shall not affect the validity of any remaining provisions, which remaining provisions shall remain in full force and effect and the parties shall interpret this Agreement, if possible, to contain a modified provision that is as nearly similar to the invalid provision in terms of intent of the parties as possible without such modified provision itself being invalid. Any provision shall nevertheless remain in full force and effect in all other circumstances.

13. Survival.

Sections 5 through 12, inclusive, of this Agreement shall survive the expiration or termination of this Agreement in accordance with their terms.

14. Notice.



Any notice required or permitted to be given under this Agreement shall be in writing and deemed effective if either delivered in person or by overnight courier, facsimile or first-class mail, certified with return receipt requested, or email. Notices to the Client shall be delivered to:

Chief Blair Myhand, Chief of Police  
630 Ashe St.  
Hendersonville, NC 28792  
Email: [bmyhand@hvlnc.gov](mailto:bmyhand@hvlnc.gov)

Notices to the Company shall be delivered to:

Hart Halsey LLC  
1 Waterview Dr, Suite 101  
Shelton CT 06484  
Attention: Rich Milliman  
Email: [RMilliman@HartHalsey.com](mailto:RMilliman@HartHalsey.com)

15. Assignment.

The Agreement is not assignable or transferable by either party.

16. Entire Agreement; Modification.

This Agreement constitutes the entire understanding between the parties hereto with respect to the subject of the Company's engagement by the Client, as provided for herein, and supersedes any and all other understandings, negotiations or agreements relating thereto, and no modification to this Agreement, nor any waiver of any rights, shall be effective unless agreed to in writing by the party to be charged.

17. Section Headings.

The section headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

18. Choice of Law.

This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of North Carolina without regard to the principles of conflicts of laws, and that if legal action is necessary to enforce this Contract, exclusive venue will lie in Henderson County, North Carolina.

19. Review of Agreement

It is acknowledged that the Client has had ample opportunity to review and consider the terms of this Agreement and to review this Agreement with Client's counsel and has voluntarily agreed to the terms presented, including, without limitation, freely choosing that North Carolina law shall govern this Agreement and all matters dealt with herein.

20. Counterparts.

Each person executing this Agreement on behalf of a party hereto represents and warrants that such person is duly and validly authorized to do so on behalf of such party, with full right and authority to execute this Agreement and to bind such party with respect to all of its obligations hereunder. This Agreement may be executed in counterparts by original or electronic signature, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

21. Force Majeure

Neither party shall be responsible for delays or failures (including any delay to make progress in the prosecution of any Services) if such delay is caused by extraordinary circumstances beyond the party's control and beyond the party's ability to commercially reasonably work around. Such causes may include, but are not restricted to, acts of God or of the public enemy, fires, floods, epidemics, riots, quarantine restrictions, strikes, freight, embargoes, earthquakes, electrical outages, and severe weather.

22. No Third Party Beneficiaries.

There shall be no intended nor incidental third party beneficiaries of this Agreement. Company shall include in all contracts, subcontracts or other agreements relating to this Agreement an acknowledgment by the contracting parties that this Agreement creates no third party beneficiaries.

23. Valid Contract.

In order for this Agreement to be valid, it must be executed by the City Manager or his or her authorized designee.

24. Verification of Work Authorization.

Company shall comply with, and require all contractors and subcontractors to comply with, the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, "Verification of Work Authorization," sometimes known as E-verify for all contractors and subcontractors.

25. Iran Divestment List.

With the execution hereof, Company, certifies that they are not on the Iran Final Divestment List created by the N.C. State Treasurer pursuant to N.C.G.S. § 147-86.58, and will not contract with anyone on such List in performance of the Work hereunder.

26. Companies that Boycott Israel List.

With the execution hereof, Firm, certifies that they are not on the Companies that Boycott Israel List created by the N.C. State Treasurer pursuant to N.C.G.S. § 147-86.80, and will

not contract with anyone on such List in performance of the work hereunder.

IN WITNESS WHEREOF, the parties hereto execute this Agreement as of the date first set forth above.

COMPANY:

HART HALSEY LLC

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

Name:

Title:

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

CLIENT:

\_\_\_\_\_

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

Name:

Title:

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

## **APPENDIX A: CUSTOMER PAYMENT DETAILS**

All credit-worthy customers are offered net 30 payment terms on all off-duty details. Company accepts credit risk on all such customers and finances the financial float associated with payment terms.

Company has the right to deem particular customers non-credit-worthy and require pre-payment from or credit card on file from such customers. Company agrees to not designate any customer as non-credit-worthy, which has been a weekly recurring customer, in consistent good standing, with the Client's off-duty program for at least one year.

Customers deemed to be non-credit-worthy, and customers wishing not to be invoiced for serviced rendered, will have the option of pre-paying via check, credit card, or escrow account. Company has the right to charge a processing fee for credit card transactions of 3%.

If a Customer utilizes the services of a third party billing service which charges usage fees to the Company, the Company has the right to charge those fees back to the Customer.

The Company's scheduling system within which Officers record their start and end off-duty work times within will be the book of record for Officer hours worked.