

## Appendix A: Client Services Agreement



This Client Services Agreement (the "Agreement") dated as of, **2/11/2022** between The Hilb Group of New England, LLC dba HR Knowledge ("HRK" or "HR Knowledge"), a Limited Liability Company, and **The Town of Monterey** the ("Client") (collectively, "the parties").

**WHEREAS**, the Client desires to engage HRK to provide certain services (the "Services") as set forth herein and in Appendix A attached hereto for its employees, such Services to be provided in accordance with the terms and conditions set forth herein;

**WHEREAS, HRK** agrees to provide Client with such Services as desired by Client for its employees in accordance with the terms and conditions set forth herein; and

**NOW, THEREFORE**, in consideration of the mutual promises hereinafter set forth, and intending to be legally bound hereby, HRK and Client hereby agree as follows:

1. **Services.** During the term of this Agreement, HRK shall provide Client with certain, on-site, employee training and development, human resource administrative and consulting services. The parties agree that HRK is a human resources consultant only and is not to be considered an employer, joint employer, partner or affiliate of any kind with Client for any purpose. Client, not HRK, is to be considered the sole decision-maker with respect to any and all issues concerning hiring, discipline and termination of employees, as well as the implementation, adoption and funding of any employee or multi-employer benefit or welfare plans.
  - a. **Excluded Services and Client Retained Responsibilities.** Client is the sole employer of any employees to which the Services provided under this Agreement may relate or refer to, or affect in any manner, for purposes of all laws, regulations and employer responsibilities not specifically listed in this Agreement, and is obligated to comply with such laws including, but not limited to (i) all federal, state and local laws relating to employment discrimination and retaliation; (ii) the quality, adequacy and safety of all goods produced or services performed by Client's employees; (iii) the provision of all facilities, equipment and job training needed to perform Services, including those necessary to comply with applicable federal and state and safety and health standards; and (iv) verifying that employees have any necessary licenses or permits. If applicable, Client is also responsible for handling all union Negotiation, communications, agreements, grievances and unfair labor practice actions. Client is further responsible for administering, implementing and assuring compliance with the terms of any collective bargaining agreements, including but not limited to, the payment of any monies or contributions owed under such agreements. Client shall be solely responsible for any actions or failures to act by it or its employees.
  - b. **Additional Services Provided under this Agreement.** HR Knowledge may at the request of the Client provide services outside the initial scope of this proposal, these services may include, but are not limited to stand-alone HR consulting, training and employee development, recruiting and value-add ancillary compliance services and products. Any Statements of Work (SOW) executed will refer to and be subject to the terms of this fully executed Client Services Agreement incorporated herein by reference.

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2. **Term of Agreement.** The initial term of this Agreement shall be for one (1) year from the date of execution of same. For Virtual HR only, this Agreement shall automatically renew for successive 12 (twelve) month terms unless Client provides 30 (thirty) days written notice before the end of the term of the agreement to HRK.
3. **Termination of Agreement.** Within fifteen (15) days of learning of the breach or default of any material term or condition of this Agreement, the non-breaching party may elect to terminate this Agreement effective as of the date of the breach or default or any date thereafter. Such termination severs the business relationship between HRK and Client and HRK shall be immediately relieved of its obligations under this Agreement. Breach or default shall include, but is not limited to: (i) the failure to timely pay any invoice, fee, wages, indemnity payment or other monies due; (ii) Client's commission or omission of any act that may impact upon or diminish the ability of HRK to perform its obligations under this Agreement in accordance with any applicable federal, state or local law or regulation, or (iii) Client's failure to comply within fifteen (15) days of any directive made necessary by a governmental entity or an insurance carrier providing coverage for HRK and/or the Client's employees. The breaching party shall reimburse the non-breaching party's actual expenses, fines and/or liabilities resulting from such a breach or default including, but not limited to, reasonable attorney's fees, court costs and any related expenses. In addition, and regardless of the circumstances in which this Agreement is terminated, Client shall be liable for all costs incurred by HRK after the termination of this Agreement, with respect to any and all liabilities arising out of this Agreement, entering into this Agreement, or the termination of this Agreement. Waiver of a breach or default shall not constitute waiver of a subsequent breach or default of that same provision.
4. **Service Fees.** The Standard Service Proposal within the Statement of Work (SOW) sets forth the services offered by HRK, the fees associated with each service, and the schedule for payment of all applicable fees during the term of this Agreement. The services and fees set forth in the SOW expire one year from listed date, at which time the current rates are subject to change. HRK shall give Client at least thirty (30) days' notice prior to the expiration of this Agreement of any changes to the Fee Schedule.
5. **Confidentiality.** HRK and Client agree that at all times during the term of this Agreement and thereafter, to hold in strictest confidence, and not to use or disclose to any person or entity without the prior authorization of the other party, any Proprietary business information of the other; provided, however, that HRK may disclose any and all Client information necessary to perform any of the Services outlined in this Agreement. Confidential Information does not include any information that has become or becomes publicly known and made generally available through no wrongful act of HRK. HRK shall not be liable for the disclosure or reporting of Client-related information to any federal, state or local governmental agency where such information is required to be disclosed by law or for purposes of responding to any governmental inquiry as to any of the Services provided to Client under the terms of this Agreement. Client agrees it will not improperly use or disclose any proprietary or confidential information or trade secrets of HRK to any other person or entity without the prior written consent of HRK. Client agrees that any written materials, forms, documents or other tangible items provided to Client by HRK in connection with any of the Services provided to Client under the terms of this

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Agreement shall be used solely in connection with Client's business and shall not be disclosed to any other individual or entity, including any separately incorporated subsidiary or other related, but legally separate, business entity, without the prior written consent of HRK.

6. **Client Union Obligations.** This Agreement does not alter, abrogate or modify in any manner Client's collective bargaining obligations or obligations under the National Labor Relations Act or Labor Management Relations Act. HRK shall have no withdrawal liability under the Multi-Employer Pension Plan Act, the Employee Retirement Income Security Act or any other law, statute, or regulation. Client assumes all responsibilities associated with the collective bargaining process, and the participation in, or withdrawal from, any employee benefit plan governed by a collective bargaining agreement.
7. **Client-Related Documents.** In the event Client requests that HRK develop an employee handbook, manual or any other written documents to be provided to Client's employees, it is the sole responsibility of Client to ensure that its employees read and acknowledge receipt of such documents and written materials. In addition, it is the Client's responsibility to maintain all original documents relating to its employees at Client's place of business, including employee personnel files and other employee-related documents required to be maintained by law.
8. **Governmental Reporting Requirements.** It is the responsibility of Client to ensure that all employees receive and complete all forms, including any and all forms and applications necessary for HRK to provide the Services under the terms of this Agreement, including wage withholding, social security, benefits applications, I-9's and all other forms or applications required to be filed with any governmental agency. HRK shall not be liable for the failure of Client to procure or provide any information requested by HRK and required to be reported to any governmental agency. The failure to provide such information to HRK upon request shall be grounds for terminating this Agreement.
9. **No Legal Advice.** Client recognizes and understands that HRK is an offsite employment and human resources consulting agency and that the Services provided by HRK are in no way to be construed as providing or rendering to Client legal advice or counseling.
10. **Entire Agreement, Amendment and Assignment.** This Agreement is the sole agreement between HRK and Client with respect to the Services to be performed hereunder and it supersedes all prior agreements and understandings with respect thereto, whether oral or written. No modification to any provision of this Agreement shall be binding unless in writing and signed by both HRK and the Client. All of the terms and provisions of this Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective heirs, executors, administrators, legal representatives, successors and assigns of the parties hereto, except that the duties and responsibilities of Client hereunder are of a personal nature and shall not be assignable or delegable in whole or in part by Client except to the extent provided for in this Agreement.
11. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with laws of the Commonwealth of Massachusetts, without giving effect to any conflict of laws and provisions.
12. **Severability.** If any provision of this Agreement or application thereof to anyone or under any circumstances is adjudicated to be invalid or unenforceable in any jurisdiction, such invalidity

or unenforceability shall not affect any other provision or application of this Agreement which can be given effect without the invalid or unenforceable provision or application and shall not invalidate or render unenforceable such provision or application in any other jurisdiction

13. **Arbitration.** All claims, disputes, grievances, differences or injuries arising out of, or in any way related to this Agreement, (except those regarding payment of any invoice, fee, indemnity, or other monies due HRK, whether based in statutes or common law, shall be resolved exclusively through final and binding arbitration under the Federal Arbitration Act ("Act") or the Massachusetts Arbitration Act, as administered by the American Arbitration Association ("AAA") under its Commercial Arbitration Rules. Except as provided in the preceding sentence, each Party agrees to waive their right to a jury trial and to seek relief in any other forum. The parties further agree to waive any applicable statute of limitations period. Any claim or dispute must be reduced to writing and submitted to arbitration within three months of the date in which any such claim accrues. Judgment may be entered on the arbitrator's decision in any court having jurisdiction. HRK and Client shall each pay one-half of the costs and expenses of such arbitration and each party shall separately pay the fees and expenses of its own counsel. The prevailing party shall be entitled to an award of attorney's fees and costs incurred in connection with any arbitration proceedings. An arbitration award is final and binding, and judgment may be entered with any court having jurisdiction. Any claim or demand shall be heard in Bristol County in MA by a single arbitrator or, if desired, a panel of up to three (3) arbitrators. All arbitrators shall be either retired state or federal judges.
14. **Indemnification Agreement.** HRK shall indemnify, defend, and hold harmless Client, its affiliates and their respective officers, directors, employees, agents, successors and permitted assigns (collectively, "Company Indemnitees"), from and against any and all losses, claims, damages, expenses, fees, settlements, penalties, actions and costs (including attorneys' fees and court costs) (collectively, the "Claims") to the extent resulting from any claims for (i) damages to property or personal injury caused by any act or omission of HRK or any of its employees or contractors, or (ii) HRK's breach of its representations and warranties or covenants set forth in this Agreement. Client shall defend, indemnify and hold harmless HRK, its parent(s), affiliates and their respective officers, directors, employees, agents, successors and permitted assigns (collectively, "HRK Indemnitees"), from and against any Claims for (i) damages to property or personal injury caused by any act or omission of Client or any of its employees or contractors, or (ii) Client's breach of its representations and warranties set forth in this Agreement. Including but not limited to the "Client Retained Responsibilities" outlined in Paragraph 1 b above. The party seeking indemnification, as the case may be (the "Indemnified Party"), will give prompt written notice of any claim to the other party (the "Indemnifying Party"). In addition, the Indemnified Party will allow the Indemnifying Party to direct the defense and settlement of any such claim, with counsel of the Indemnifying Party's choosing, and will provide the Indemnifying Party, at the Indemnifying Party's expense, with information and assistance that is reasonably necessary for the defense and settlement of the claim. The Indemnified Party reserves the right to retain separate counsel, at the Indemnified Party's sole expense, to participate in the defense of any such claim. The Indemnifying Party may not settle any claim without the Indemnified Party's prior written consent, if the settlement terms would adversely affect the Indemnified Party

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or its rights or impose any obligation (monetary or otherwise) on the Indemnified Party. Except for (A) either party's breach of its confidentiality obligations, (B) fraud, fraudulent misstatement or fraudulent misrepresentation, (C) breach of a party's indemnification obligations hereunder (D) client's failure to pay fees in full and on time and (E) any liability which may be excluded by law, each party's total liability arising out of this agreement is limited to the total fees paid or payable to HRK during the three (3) month period preceding the date on which the event giving rise to such liability occurred pursuant to this agreement. In no event shall either party be liable to the other for (X) lost profits, costs of procurement or procurement of substitute goods, or any other special, consequential, incidental, punitive or indirect damages, however cause on any theory of liability, or (Y) except for a party's indemnification obligations hereunder, any third party claims against a party arising out of or in any way related to this agreement, regardless of the basis of liability of any such claim, (whether based on contract, tort, breach of statutory duty or otherwise, even if informed of such damages. These limits shall apply to liability in the event of failure of essential purpose of any limited remedy.

15. **Non-Solicitation of Employees.** During the term of this Agreement and for a period of one year thereafter, each party agrees that it will not solicit or attempt to induce any employees of the other party to terminate their employment with HRK, Inc., or recruit or hire away any such employee, without the other party's written consent. During the term of this Agreement and for a period of one (1) year thereafter, Client shall not hire, employ, contract with, or permit to serve as its agent in any way, any person who is or was employed by HRK or by its business partner, HR Knowledge, Inc., at any time during the term of this Agreement. Client acknowledges that employee recruitment is an integral part of HRK's business. Should Client wish to hire, employ, contract with or engage as an agent any such person, a relationship with whom would otherwise be prohibited under this Agreement, Client shall notify HRK which may, in its sole discretion, grant written permission to do so upon payment of an additional fee by Client in the amount of \$30,000.00 or 50% of the first year's total compensation for that employee, whichever is greater.

### HR Knowledge Authorization:

The Hilb Group of New England, LLC  
dba HR Knowledge  
603 West Street  
Mansfield, MA 02048

### Client Authorization:

The Town of Monterey  
435 Main Road  
Monterey, MA 01245

Name: Melissa M. Gillespie

Title: Vice President, HR Services

Signature: \_\_\_\_\_

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

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