

# Hamer Enterprises®

## INTERNET PROCESSING PROFESSIONAL SERVICES AGREEMENT

HECORP, INC DBA HAMER ENTERPRISES (HE) whose principal office is located at 4200-A N. Bicentennial Drive, McAllen, Texas, 78504 and City of Donna, (CLIENT) at 307 S. 12th St., Donna, TX 78537, a recipient of HE Internet Processing Professional Services agree as follows:

### WITNESSETH:

WHEREAS, the CLIENT has a need for Internet Processing Professional Services.

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

#### 1. Agreement:

The Agreement consists of:

This document and

EXHIBITS A through C, attached hereto.

#### 2. CONSIDERATION:

While the CLIENT will not be responsible for any cash consideration to HE for the SERVICES as per EXHIBIT A, the CLIENT's customers who choose to benefit from the SERVICES used in will pay HE and HE will be responsible for collecting a service fee that is clearly defined to the CLIENT's customers by HE prior to using the SERVICES on a transaction basis per each department who opt to use the SERVICES as per EXHIBIT C. Because banks and credit card processing firms costs and fee structures to HE routinely change, HE's current service fee schedule is subject to change at any time and HE will be allowed to modify the fee schedule at HE's discretion under this Agreement. If the CLIENT allows access to the CLIENT's merchant account and CLIENT's customer performs a transaction using the SERVICES that results in a charge back or returned item to HE, HE will reverse the transaction made to the CLIENT's specified bank account and provide the CLIENT with the appropriate reporting to identify the charge back or returned item. Unless specifically stated to the contrary elsewhere within this Agreement, the CLIENT agrees that nothing said or implied within this Agreement shall provide the CLIENT with any ownership or a continuous, uninterrupted right-to-use license of HE products or services during this Agreement or after the termination of this Agreement by either party.

#### 3. EXTENSION OF TIME:

HE shall not be liable under this Agreement for any loss or damage to the CLIENT due to delay in delivery or other performance failures resulting from any cause beyond HE's reasonable control. Such causes shall include, but are not limited to compliance with lawful regulations, orders, acts, instructions, or priority requests of any Government, or department or agency thereof, civil or military authority, acts of God, acts of the public enemy, acts or omissions of the CLIENT, fires, floods, strikes, lockouts, embargoes, wars, riots or insurrections. HE shall give the CLIENT notice of the presence of any cause referenced above promptly after HE becomes aware of the existence of same.

#### 4. TERMINATION BY THE CLIENT:

CLIENT may terminate this agreement for any or no reason. Any notice required to be given by the terms of this Agreement shall be sent by certified mail, postage prepaid or express delivery and addressed to:

#### HAMER ENTERPRISES

William C Hamer

4200-A N. Bicentennial Drive, McAllen, TX 78504

Phone: (956) 682-3466

Fax: (956) 682-0372

**5. CLIENT RESPONSIBILITIES:**

The CLIENT will provide a designated financial institution as its depository required to make deposits electronically and any additional responsibilities outlined as per EXHIBIT B. The CLIENT shall comply with Federal and State regulations regarding eCommerce. The CLIENT shall assign a Mayor Irene Muñoz to perform as liaison.

**6. LIMITATIONS:**

HE's sole liability under this Agreement shall be for providing the SERVICES. HE will not be liable for any lost profits, revenues, or for any claim or demand against the CLIENT by any other party. HE's liability hereunder for damages, regardless of the form of action, shall not exceed the fees and other charges paid by the CLIENT under this Agreement. In no event shall HE be liable for consequential damages even if HE has been advised of the possibility of such damages.

**7. INSURANCE:**

At the request of the CLIENT, HE shall provide proof of comprehensive general liability.

**8. SECURITY AND PRIVACY:**

CLIENT agrees that none of its officers or employees shall use or reveal any HE proprietary information furnished by HE for any purpose other than the purpose for which it was obtained. Copies of such information shall not, without the consent of HE, be admitted as evidence or used for any purpose in any action, suit or other judicial or administrative proceedings, unless ordered by a court of competent jurisdiction. HE shall be notified in writing immediately upon receipt of any such order of court, pertaining to production of such information.

**9. CONFLICT OF INTEREST DISCLOSURE:**

HE warrants that no person or selling agency has been employed or retained to solicit or secure percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by HE for the purpose of securing business. For breach or violation of this warranty, the CLIENT shall have right to terminate this Agreement in accordance with the termination clause, and at its sole discretion, to deduct from the agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

**10. INDEMNIFICATION:**

HE hereby agrees to indemnify and hold harmless the CLIENT, its officers, agents and employees of and from:

- A. any and all claims and demands which may be made against the CLIENT, its officers, agents, or employees by reason of any infringement or alleged infringement of any patent rights or claims caused or alleged to have been caused by the use of any apparatus, appliance, or materials furnished by HE under this Agreement; and
- B. any and all penalties imposed or damages sought on account of the violation of any law or regulation or of any term or condition of any permit required of HE.

**11. VENUE:**

The venue for this and all associated agreements shall be Hidalgo County, Texas.

**12. TERM OF AGREEMENT:**

The Agreement shall commence on the latter of the execution dates of the parties to this Agreement and shall continue unless sooner terminated or extended as herein provided.

**13. SEVERABILITY:**

If any provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

**14. STATE OF TEXAS LAWS:**

This agreement shall be governed according to the laws of the State of Texas.

15. NON-ASSIGNABILITY:

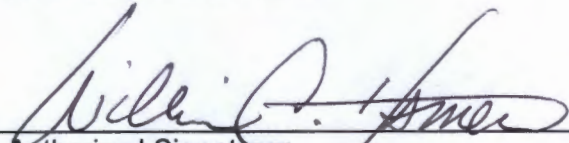
The parties hereto may not assign the rights or obligations hereunder without the prior written consent of the other party.

THIS AGREEMENT SHALL NOT BE EFFECTIVE UNTIL EXECUTED BY CLIENT AND ACCEPTED BY AN AUTHORIZED REPRESENTATIVE OF HE AT ITS PRINCIPAL PLACE OF BUSINESS.

CLIENT and HE have caused this Agreement to be executed by their authorized signatures as of the latter date below.

HE:  
HAMER ENTERPRISES

CLIENT:  
City of Donna, TX

  
Authorized Signature

  
Authorized Signature

Mr. William C Hamer  
Printed


Irene Muñoz  
Printed

CEO  
Title

Mayor  
Title

3-10-17  
Date

3-09-17  
Date

  
Attest

City Secretary  
Title

## 1. EXHIBIT A: PROFESSIONAL SERVICES DESCRIPTION

HE will provide their eScofflaw<sup>®</sup> Hosted Application Services and EZ-NETPAY<sup>®</sup> Internet Payment Services to CLIENT for collections specific to the CLIENT:

- A. Access to the EZ-NETPAY<sup>®</sup> eCommerce Gateway via an Internet backbone connection provided by the CLIENT
- B. Access to the eScofflaw<sup>®</sup> Hosted Application Services via an Internet backbone connection provided by the CLIENT
- C. All maintenance and support of the eScofflaw<sup>®</sup> Hosted Application Services and EZ-NETPAY<sup>®</sup> eCommerce Gateway and any agreed to Web Services to meet the SERVICES requirements to include, but not be limited to, any technical upgrades required to perform the SERVICES
- D. Training staff on the operation of eScofflaw<sup>®</sup> Hosted Application Services and EZ-NETPAY<sup>®</sup> Services
- E. Standard reports predicated on existing EZ-NETPAY<sup>®</sup> eCommerce Gateway fields, those fields include but not limited to transaction date, transaction id and unique batch number and settlement information

Overall Hosting Services Features Include:

eScofflaw<sup>®</sup> Portal Absconders Access  
eScofflaw<sup>®</sup> Portal Designated Authorized County Staff Access  
eNETPAY<sup>®</sup> Online Payment Gateway Settlement Reports Site

### **Connectivity:**

High Speed connectivity, Network & Connection Monitoring

### **Backup Services:**

Daily, Weekly, Monthly & Annual backups – this includes the following:

Monthly Entire System Save, Offsite Storage & Rotation, Data Restoration, Disk Protection and Power Backup

### **Multi-tier Security:**

Physical Security, Logical Security, Monitoring and Analysis

### **Data Base:**

Database management updates, daily upload via HE Secure File Transfer Protocol Service.

## 2. EXHIBIT B: CLIENT RESPONSIBILITIES

The CLIENT shall be responsible for providing data files, daily, to an FTP Site, HE's Secure FTP Site or make data accessible for HE's updating to provide the services to the CLIENT.

The CLIENT shall allow HE exclusively to Interface HE's eCommerce payment gateway with HE's eScofflaw<sup>®</sup> Portal.

The CLIENT shall allow any City of Donna Department or Municipality within City of Donna to add case data for eScofflaw<sup>®</sup> collections at the discretion of City of Donna Commissioners, City of Donna Department or the City of Donna Tax Assessor Collector

### 3. EXHIBIT C: LOCATIONS

The CLIENT shall allow any County Department use of HE's Internet Professional Services for payment processing at the discretion of the City of Donna Commissioners or City of Donna Department.