

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is made and entered into as of the 1st day of October, 2017 by and between **Burnet County Jail, Texas** ("Burnet County Jail") and **Tri-ToImagine Inc** ("Imagine").

In consideration of the mutual premises, covenants and agreements herein contained, the parties agree as follows:

Section 1. Engagement. Burnet County Jail hereby engages Imagine, and Imagine hereby accepts such engagement, to perform computer system service and support (the "Services") on the Burnet County Jail network, which includes but is not limited to: Local Area Networks at each Burnet County Jail location (current and future); Wide Area Network connecting Burnet County Jail's locations (current and future) using cable, phone, fiber, wireless, etc.; and all Burnet County Jail workstations and servers (current and future). Imagine shall perform the Services for the benefit of Burnet County Jail upon the terms and conditions contained in this Agreement.

Section 2. Term and Termination.

(a) **Term.** The term of Imagine's engagement by Burnet County Jail hereunder (the "Term") shall commence on October 1, 2017 and will continue in effect for the duration of one calendar year, unless it is earlier terminated in accordance with this Section.

(b) **Termination.** This Agreement may be terminated prior to the end of the Term upon 30 days notice by either party for any or no reason. Such termination shall be effective 30 days following delivery, by the terminating party to the other party, of written notice of such termination.

Section 3. Service Quality; Fee; Services; Payment Terms; Taxes.

(a) **Service Quality.** The Services and other duties of Imagine hereunder shall be performed promptly upon request by Burnet County Jail. In each such case Imagine shall commence the Services or other duties no later than eight hours following the time each request is made by Burnet County Jail, its representatives or employees. Each such service and support request call shall be made by contacting Imagine via telephone at (830) 798-1244.

(b) **Fee.** In exchange for Imagine's ongoing performance of the Services and the other duties and obligations under this Agreement, Burnet County Jail shall pay to Imagine a fee (the "Fee") equal to: ~~\$450.00~~ per calendar month, prepaid, as the Monthly Fee for hours spent by Imagine providing the Services to Burnet County Jail, and ~~\$75.00~~ per hour for each hour spent on new and/or additional installation, tracked to .25 hour increments. The Fee and the Additional Payment shall be the sole compensation due Imagine in connection with its rendition of the Services and its performance of the other duties and obligations under this Agreement. Burnet County Jail shall not be obligated to reimburse Imagine for any expenses incurred by Imagine in connection with Imagine's performance of the Services.

(c) **Services.** Services included in the Initial Set-up Fee and Monthly Fee and not separately billable by the hour include the following services: preparation of a network infrastructure organizational chart; preparation of network documentation; and performance of a network and computer audit

(d) **Payment Terms.** A statement for Services provided to Burnet County Jail under this Agreement shall be submitted to Burnet County Jail by Imagine on a monthly basis and shall be due and payable within thirty (30) days of Burnet County Jail's receipt thereof ("Due Date"). Payments for undisputed charges not received within 15 days following the Due Date may be considered delinquent and may bear interest at the rate of one percent (1.0%) per month or at the maximum rate allowed by law, whichever is less. All statements shall be deemed to be correct and binding upon Burnet County Jail unless written notice is provided to Imagine of any disputed charges within sixty (60) days of the date Burnet County Jail receives the statement. The parties will make a good faith effort to resolve billing disputes as expeditiously as possible. Imagine shall not present a bill for, and Burnet County Jail shall not pay for, services for which charges accrued more than sixty (60) days prior to the date of the statement and for which a statement has

not been previously presented.

(e) **Taxes.** Imagine, and not Burnet County Jail, shall be solely responsible for paying all required federal, state and local taxes related to any amounts received by Imagine pursuant to this Agreement. Burnet County Jail shall not withhold OASDI, Medicare or any federal, state or local income or other tax, make unemployment insurance contributions or obtain workers' compensation insurance on behalf of Imagine.

Section 4. Independent Contractor. Imagine shall at all times be an independent contractor and nothing in this Agreement shall at any time be construed so as to create the relationship of employer and employee, principal and agent, partnership or joint venture as between Imagine and Burnet County Jail. Imagine shall have the entire charge, control and supervision of its performance of the Services. Imagine will not have any authority to incur any obligation or bind or commit Burnet County Jail to any agreement, contract, or commitment or to waive, modify, or amend any rights of Burnet County Jail under any agreement, contract, or commitment, except as expressly authorized in writing by Burnet County Jail. Burnet County Jail shall not in any manner be answerable or accountable for: (i) any violation by Imagine of any federal, state or local laws, regulations, ordinances, rules or orders; or (ii) for any injury, loss or damage arising from or out of any act or omission of Imagine.

Section 5. Governing Law. This Agreement and the respective rights and obligations of the parties hereto shall be governed by and construed in accordance with the laws of the State of Texas, without regard to its conflicts of laws provisions.

Section 6. Successors and Assigns. This Agreement and the terms, covenants, provisions and conditions hereof shall be binding upon, and shall inure to the benefit of, the respective heirs, successors and assigns of the parties hereto; provided, however, that Imagine may not subcontract or assign this Agreement.

Section 7. Severability. If any provision of this Agreement is held to be invalid or unenforceable for any reason, such provision shall be conformed to prevailing law rather than voided, if possible, in order to achieve the intent of the parties and, in any event, the remaining provisions of this Agreement shall remain in full force and effect and shall be binding upon the parties hereto.

Section 8. Limitation of Damages. UNDER NO CIRCUMSTANCES WILL BURNET COUNTY JAIL BE LIABLE TO IMAGINE FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES.

Section 9. Compliance with Law. Imagine agrees that it shall at all times fully comply with all laws, statutes, ordinances, rules, regulations and orders applicable to the Services or this Agreement.

Section 10. Entire Agreement. This Agreement embodies the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings, oral or written, relating to said subject matter. This Agreement may not be amended or modified in any manner except by a written agreement signed by each of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the day and year first above written.

BURNET COUNTY JAIL:
Burnet County, Texas

By: _____

Title: County Judge

IMAGINE:

Joey Dean Proctor