

CONTRACT

by and between

CUYAHOGA COUNTY, OHIO

and

INMAGINE LLC

THIS AGREEMENT is made and entered into this 15th day of April, 2013, by and between Cuyahoga County, Ohio (the "County"), on behalf of the Department of Information Technology and INMAGINE LLC ("INMAGINE"), a California corporation, having principal place of business at 315 Montgomery Street Suite 818 San Francisco, CA 94104 (the "Provider").

WHEREAS, the County has a present need for royalty free stock photography used by the Department of Information Technology; and

WHEREAS, INMAGINE, is the lowest bidder for service of the royalty free stock photography, and

WHEREAS, the County desires to avail itself of access of the royalty free stock photography and INMAGINE is willing to provide such service to the County all upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, INMAGINE and the County agree as follows:

ARTICLE I – AGREEMENT AND TERM

- 1.1 **Scope of Agreement.** During the term of this Contract, INMAGINE shall provide the County with access to the royalty free stock photography listed on the attached Invoice Summary # C000234981, attached hereto and incorporated by reference herein as Schedule A.
- 1.2 **Term.** The term of this Contract shall commence as of April 1, 2013; and, unless earlier terminated in accordance with the provisions of this Contract, shall continue in effect for a period of three years from commencement date. (4/1/13 through 3/31/16). The cost of this Contract shall not exceed Two Thousand Ninety-Seven Dollars and Twenty Cents (\$2,097.20).

ARTICLE II - SCOPE OF WORK

2.1 Rendering of Services. INMAGINE hereby agrees to render the services identified in Article 1.1 and Schedule A at a total price not to exceed **Two Thousand Ninety-Seven Dollars and Twenty Cents (\$2,097.20)**. In the event that a discrepancy exists between the terms of Schedule A and this agreement, the terms of this agreement will be controlling and binding.

ARTICLE III - PAYMENT AND INVOICING

- 3.1 Payment. During the term of this contract, the County shall pay INMAGINE for the services outlined in Schedule A upon receipt of said invoice and approval of the County Executive.
- 3.2 Invoicing. INMAGINE shall invoice the County for the services outlined in Schedule A upon execution of this Contract. INMAGINE shall submit original invoice(s) to the following address:

Cuyahoga County Department of Information Technology
Business Department
1255 Euclid Avenue, 4th floor
Cleveland, Ohio 44115

ARTICLE IV - INDEMNITIES

- 4.1 Indemnification. INMAGINE shall agree to release, indemnify and to hold harmless Cuyahoga County and any and all officers, agents, servants or employees thereof, from any and all responsibility or liability for INMAGINE's gross negligence or willful misconduct under this contract.

ARTICLE V - DISPUTE RESOLUTION AND TERMINATION

- 5.1 Termination for Default. Either party may terminate this Contract, in whole or in part, whenever such party determines that the other has failed satisfactorily to fulfill its obligations and responsibilities hereunder and is unable to cure such failure within a reasonable period of time, not to exceed thirty (30) calendar days or such longer period of time as may be specified in writing by the terminating party, taking into consideration the gravity and nature of the default. Such termination shall be referred to as "Termination for Default". Upon determination by either party hereto that the other has failed to satisfactorily perform its obligations and responsibilities hereunder, the party seeking termination shall notify the defaulting party in writing of the failure and of the time period that has been established to cure such failure, which time period shall be not less than ten (10) days. If the defaulting party is unable to cure the failure within the specified time period, the party seeking to terminate may, by giving written notice thereof to the defaulting party, terminate this Contract, in full or in part, as of the date

specified in the notice of termination. INMAGINE, however, shall be paid for all services and/or materials provided on or prior to the date of termination.

- 5.2 Termination for Financial Instability. In the event that INMAGINE becomes financially unstable to the point of (i) ceasing to conduct business in the normal course, (ii) making a general assignment for the benefit of creditors, or (iii) suffering or permitting the appointment of a receiver for its business or its assets, or there is a filing by or against INMAGINE of a meritorious petition in bankruptcy under any bankruptcy or debtor's law, the County may, at its option, immediately terminate this Contract under Section 5.2, the "Termination for Default" clause, by giving written notice thereof.

ARTICLE VI – ADHERENCE TO ELECTRONIC SIGNATURE POLICY OF COUNTY

- 6.1. By entering into this Contract, INMAGINE, its officers, employees, subcontractors, sub-grantees, agents or assigns, to conduct this transaction by electronic means by agreeing that all documents requiring county signatures may be executed by electronic means, and that the electronic signatures affixed by Cuyahoga County to said documents shall have the same legal effect as if that signature was manually affixed to a paper version of the document.
- 6.2. INMAGINE further agrees to be bound by the provisions of Chapter 304 and 1306 of the Ohio Revised Code as they pertain to Electronic Transactions and to comply with the electronic signature policy of Cuyahoga County.

ARTICLE VII – MISCELLANEOUS

- 7.1 Notices. Wherever one party is required or permitted to give notice to the other pursuant to this Contract, such notice shall be deemed given when delivered by hand, via certified mail with return receipt requested, via overnight courier with signature required, and addressed as follows:

In the case of the County:

Cuyahoga County Department of Information Technology
1255 Euclid Avenue, 4th Floor
Cleveland, Ohio 44115

In the case of INMAGINE :

INMAGINE LLC
Finance Department
315 Montgomery Street
Suite 818
San Francisco, CA 94104

Either party may from time to time change its designated recipient or address for notification purposes by giving the other party written notice of the new designated recipient or address and the date upon which it will become effective.

- 7.2 Survival of Terms. Termination or expiration of this Contract for any reason shall not release either party from any liabilities or obligations set forth in this Contract which (i) the parties have expressly agreed shall survive any such termination or expiration, or (ii) remain to be performed or by their nature would be intended to be applicable following any such termination or expiration.
- 7.3 Record Audit Retention. INMAGINE agrees to make all pertinent contractual books and records and other documents pertaining to this Contract available to the County and its designated agents for purpose of audit and examination upon reasonable request during the term of this Contract and for a period of two (2) years from the expiration date or final payment under this Contract, whichever is later; provided however, that should INMAGINE be notified that an audit has been commenced pursuant to Ohio Revised Code Sec. 117.11 during said period, for which the aforesaid books and records are material, the aforesaid records shall be retained pending the completion of said audit.
- 7.4 Governing Law. This Contract shall be subject to interpretation under the laws of the State of Ohio.
- 7.5 Social Security Act. INMAGINE shall be and remain an independent corporation with respect to all services performed hereunder and agrees to and does hereby accept full and exclusive liability for payment of any and all contributions or taxes for social security, unemployment insurance, or old age retirement benefits, pensions, or annuities now or hereafter imposed under any Local, State or Federal Law which are measured by the wages, salaries, or other remuneration paid to persons employed by INMAGINE for work performed under the terms of this contract and further agrees to obey all lawful rules and regulations and to meet all lawful requirements which are now or hereafter may be issued or promulgated under said respective laws by and duly authorized State or Federal officials; and INMAGINE also agrees to indemnify and save harmless Cuyahoga County from such contributions or taxes or liability.
- 7.6 Assignment. INMAGINE shall not assign, transfer, convey or otherwise dispose of this Contract, or its right to execute it, or its right, title or interest in or to it or any part thereof, or assign, by power of attorney or otherwise, any of the monies due or to become due under this Contract without approval of the County Executive.
- 7.7 Contract Processing. INMAGINE shall submit one (1) original contractual agreement with original signature to the following:

Cuyahoga County Department of Information Technology
ATTN: Business Department
1255 Euclid Avenue, 4th Floor
Cleveland, Ohio 44115

7.8 Commencement of Contract Performance. In order to protect the interest of Cuyahoga County this contract must be executed by the County Executive before compensation for the services or products set forth in this contract can be provided. In the event that services are provided by INMAGINE prior to the execution of this agreement by the County Executive, the same will be provided at INMAGINE's risk, and payment therefore cannot, and will not, be made unless and until this agreement is approved by the County Executive. Upon approval by the County Executive of this contract, however, any and all prior performance under this contract shall be deemed ratified and said performance shall be deemed to be included in this Contract. Payment(s) for said prior performance shall not increase the amount of the Contract limit.

7.9 Schedules Incorporated by Reference. The following Schedules are attached hereto and are incorporated herein:

Schedule A: Invoice Summary # C000234981

THIS AGREEMENT shall be subject to interpretation under the laws of the State of Ohio, and is subject to the review of the County Prosecutor's Office as to legal form and correctness.

IN WITNESS WHEREOF, the County and INMAGINE have each caused this Contract to be signed and delivered by its duly authorized representative as of the date first written.

INMAGINE LLC.

BY: 
Khor See Woon, CEO

CUYAHOGA COUNTY, OHIO

Edward FitzGerald, County Executive

BY: 
Edward FitzGerald, County Executive

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