

**COUNCIL ACTION FORM**

**SUBJECT:** WEBSITE CONTRACT WITH GRANICUS

**BACKGROUND:**

The City's website ([www.CityOfAmes.org](http://www.CityOfAmes.org)) is visited by hundreds of users every day, and it provides 24/7 access and services including utility bill payments, job applications, current bid documents, recreation program registration, and construction and development applications. **To further the City Council's goal of valuing communication and engagement with citizens, \$75,000 in funding from the Hotel/Motel Tax Fund was included in the FY 2022/23 adjusted budget to improve the website. Updating the City's online presence is important because the website has been identified as the most common source of City information according to the annual Resident Satisfaction Survey for the past several years.**

The current web uses a backend content management system (CMS) and is hosted by Granicus LLC, a Denver-based technology company. This system was procured through a competitive process in 2009. More than 50 City staff are backend users on the City web. Beginning in summer 2022, the City web group (Websters) began discussing ways the website could be improved as part of the regular Webster meetings.

The desired improvements focused on three areas:

- Attractive, intuitive design/Improved hierarchy
- Compliance with Americans with Disabilities Act (ADA)
- Better responsive design (display on different device sizes, e.g., phones, tablets)

From the larger Webster group, a Website Improvement Subcommittee was formed to focus specifically on the identified improvements. The group considered two scenarios:

- 1) Abandoning the existing website and issuing an RFP for a new website including new backend and design; or
- 2) Working with the current website provider to improve the backend and redesign the web.

**After much discussion and research, the subcommittee decided it would be faster, more cost-efficient, and the least disruptive to customers and City staff members to improve the current website.**

The Website Improvement Subcommittee created a survey for Websters in January 2023 to determine specific areas of improvement for a new web. **When asked to summarize customer complaints, the Websters' responses included:**

- Too many clicks required
- Too much info on each page
- More quick links on front needed
- Mobile navigation/responsive design is bad
- No centralized City projects page
- Improve agenda process
- Needs overall navigation improvements
- Delete orphan/outdated pages
- Develop uniform department pages
- Update banner and modernize design

Since January 2023, staff has met regularly with Granicus to determine the appropriate backend website solution to meet the identified needs of web users and Websters. Granicus recommended its “Open Cities” platform best meets the needs outlined by City staff. Other cities using this platform which include:

- Miami, Florida (<https://www.miami.gov/Home>)
- Syracuse, New York (<https://www.syr.gov/Home>)
- Orlando, Florida (<https://www.orlando.gov/Home>), and
- Denver, Colorado (<https://denvergov.org/Home>)

**Granicus proposed a contract in the amount of \$47,920 to complete a website redesign, including a new backend solution.** Granicus begins every website redesign with the discovery phase. Therefore, the contract includes data collection tools to identify current concerns with the existing web and desired content/functions before beginning the redesign itself. **This process will include collection of analytical information from users, input from Websters, and surveys.**

**In addition to the one-time \$47,920 cost to redesign the website, the City will pay a subscription fee of \$35,492.54 in FY 2023/24 to Granicus to continue 1) website hosting (paid for by Information Technology) and 2) video archive hosting (paid for by Media Productions), as well as 3) a new agenda management system hosting (paid for by the City Clerk’s Office).**

Reflected in the table below is the future year pricing for the remaining four years included in the contract.

**FUTURE YEAR PRICING**

Solution(s)	Period of Performance			
	Year 2	Year 3	Year 4	Year 5
Government Experience Cloud (SERVE)	\$37,267.17	\$39,130.53	\$41,087.05	\$43,141.39
<b>SUBTOTAL:</b>	<b>\$37,267.17</b>	<b>\$39,130.53</b>	<b>\$41,087.05</b>	<b>\$43,141.39</b>

The Government Experience Cloud (SERVE) represents the three services highlighted above.

**ALTERNATIVES:**

1. Award a five-year contract with Granicus LLC, Denver, Colorado, in the amount not to exceed of \$83,412.54 for Year 1 for the onetime fee for the new website backend and redesign as well as the ongoing subscription fees for a new agenda management system, website hosting, and video archive hosting.

The contract also establishes subscription fees for the three ongoing services as follows: Year 2 (\$37,267.17), Year 3 (\$39,130.53), Year 4 (41,087.05) and Year 5 (\$43,141.39). However, the contract allows the City to make the final decision whether to approve any future year obligation.

2. Approve the contract with Granicus that excludes the website redesign, but still includes the three ongoing services for a cost of \$35,492.54.

This alternative will be selected if the City Council no longer wants to pursue a redesign of the City’s website.

3. Do not approve a contract with Granicus and direct the City staff to negotiate with a different company to house a redesigned website.

This alternative will be selected if the City Council wants to partner with a different company to design and house the website.

**CITY MANAGER'S RECOMMENDED ACTION:**

The proposed five-year contract with Granicus will allow for a new interface to be deployed for website visitors that will better match their desires. In addition, it will provide for new features for the backend users (City employees) to better manage the information on the site. Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative #1, as described above.

Funding for the one-time web backend and redesign of \$47,920 will come from the \$75,000 the City Council appropriated for website improvements. The remaining \$35,492.54 for the hosting costs will be covered by funds already budgeted in the division budgets.



THIS IS NOT AN INVOICE

Order Form  
Prepared for  
Ames, IA

## Granicus Proposal for Ames, IA

### ORDER DETAILS

**Prepared By:** Allyson Bidy  
**Phone:** (832) 415-6090  
**Email:** allyson.bidy@granicus.com  
**Order #:** Q-281251  
**Prepared On:** 05 Sep 2023  
**Expires On:** 31 Dec 2023

### ORDER TERMS

**Currency:** USD  
**Payment Terms:** Net 30 (Payments for subscriptions are due at the beginning of the period of performance.)  
**Period of Performance:** The term of the Agreement will commence on 1 Aug 2023 signed and will continue for 60 months.

**The subscription includes the following domain(s) and subdomain(s):**  
 •cityofames.org

#### Communications Cloud Tier:

for up to 5000 subscribers

### PRICING SUMMARY

#### Terminating Subscriptions

Solution	Quantity/Unit	Prior Annual Fee	Prorated Credit
GovMeetings Live Cast*	0 Each	\$9,136.01	\$650.78
Granicus Live Cast Encoding Software*	0 Each	\$1,500.00	\$106.85
Open Platform Suite*	0 Each	\$0.00	\$0.00
govAccess for Traditional visionLive	0 Each	\$11,988.51	\$2,457.92
Peak Agenda Management*	0 Each	\$8,500.00	\$6,747.60
<b>SUBTOTAL:</b>		<b>\$31,124.52</b>	<b>\$9,963.15</b>

Upon 1 Oct 2023, annual fees for the terminating subscription(s) shall cease. Any pre-paid fees for the terminating subscription(s) after 1 Oct 2023 will be prorated from the signing of this Agreement to the end of the Client's then-current billing term, credited, and such credit applied to the annual fees for new subscriptions.

Client will continue to have access to and use the terminating solution until the new subscription(s) is/are deployed. Upon the deployment of Client's new solution as determined at Granicus' sole discretion, Granicus shall remove access to the Client's terminating subscription(s).

\* Solutions marked with an asterisk reflect existing solutions purchased by Client, which will continue under this Agreement under Government Experience Cloud (SERVE).



<b>One-Time Fees</b>			
<b>Solution</b>	<b>Billing Frequency</b>	<b>Quantity/Unit</b>	<b>One-Time Fee</b>
Government Experience Cloud (SERVE) – Set-up & Config	Up Front	1 Each	\$0.00
Granicus Web - Enhanced Package	Milestones - 40/20/20/20	1 Each	\$12,000.00
Government Experience Cloud (SERVE) – Training	Up Front	1 Each	\$0.00
Communications Cloud - Online Training	Up Front	1 Each	\$0.00
Communications Cloud - Setup and Configuration	Up Front	1 Each	\$0.00
Setup and configuration package: OpenForms License	Up Front	1 Each	\$0.00
Training: OpenForms	Up Front	1 Each	\$0.00
<b>SUBTOTAL:</b>			<b>\$12,000.00</b>

<b>New Subscription Fees</b>			
<b>Solution</b>	<b>Billing Frequency</b>	<b>Quantity/Unit</b>	<b>Annual Fee</b>
Government Experience Cloud (SERVE)	Annual	1 Each	\$35,492.54
<b>SUBTOTAL:</b>			<b>\$35,492.54</b>

## **FUTURE YEAR PRICING**

<b>Solution(s)</b>	<b>Period of Performance</b>			
	<b>Year 2</b>	<b>Year 3</b>	<b>Year 4</b>	<b>Year 5</b>
Government Experience Cloud (SERVE)	\$37,267.17	\$39,130.53	\$41,087.05	\$43,141.39
<b>SUBTOTAL:</b>	<b>\$37,267.17</b>	<b>\$39,130.53</b>	<b>\$41,087.05</b>	<b>\$43,141.39</b>



## OPTIONAL SOLUTION PRICING

Optional Solutions			
Solution	Billing Frequency	Quantity/Unit	Associated Fee
Migration of existing Agendas	Up Front	1 Each	\$920.00
GXG Writing for the Web Workshop	Up Front	1 Each	\$5,000.00
Advanced UX Analysis Package	Milestones - 40/20/20/20	2 Each	\$6,000.00
Training - OpenCities	Upon Delivery	1 Each	\$1,500.00
GXG Information Architecture	Up Front	1 Each	\$22,500.00
<b>SUBTOTAL:</b>			<b>\$35,920.00</b>



## PRODUCT DESCRIPTIONS

Solution	Description
Government Experience Cloud (SERVE)	Government Experience Cloud is a purpose-built software-as-a-service (SaaS) solution that helps local government transform the resident experience to better connect, engage, and serve constituents by increasing workflow efficiencies and maximizing existing technology investments, such as integrations into traditional back-office enterprise solutions. The SERVE edition is an outcome focused solution that reduces costs by prioritizing moving expensive interactions with government - calls, in-person visits and downloadable PDFs - to easy-to-use self service interactions backed by data.

Solution	Description
Granicus Web - Enhanced Package	<p>The Enhanced package provides a citizen-focused website with a robust UX process. This package utilizes standard CMS functionality to create a modular homepage layout. It is recommended for organizations that have a small/medium website implementation team with the capacity to engage in a design process to feature their existing branding using proven design patterns for digital transformation. <b>This package includes:</b></p> <ul style="list-style-type: none"> <li>• Professional Project Management <ul style="list-style-type: none"> <li>○ Weekly / bi-weekly communication</li> </ul> </li> <li>• Basic UX Consultation, which may include one (1) or more of the following based on consultation with client: <ul style="list-style-type: none"> <li>○ One (1) site analytics report based on Google Analytics</li> <li>○ One (1) homepage heatmap analytics visualization</li> <li>○ One (1) internal stakeholder survey</li> <li>○ One (1) Community survey export</li> <li>○ One (1) modular homepage wireframe based on predefined building blocks</li> <li>○ Information Architecture (IA) best practices review</li> </ul> </li> <li>• One (1) Content Rationalization Package (basic) <ul style="list-style-type: none"> <li>○ Best practices review, one (1) hour session</li> <li>○ Site scrape loaded into AIM framework document</li> </ul> </li> <li>• One (1) Visual Design Package <ul style="list-style-type: none"> <li>○ One (1) homepage design concept</li> <li>○ Interior page sample</li> <li>○ Mobile version sample</li> <li>○ Up to three (3) rounds of design revisions</li> </ul> </li> <li>• Up to two (2) CX features <ul style="list-style-type: none"> <li>○ choose from Granicus library</li> </ul> </li> <li>• Development/CMS Implementation</li> <li>• Content Migration - up to one hundred (100) pages</li> <li>• QA &amp; Accessibility Report</li> <li>• Remote Training <ul style="list-style-type: none"> <li>○ Delivered in three (3) non-consecutive sessions eight (8) hours total</li> <li>○ No limit on attendees - Granicus recommends no more than twenty (20) people for effective training.</li> </ul> </li> </ul>



Solution	Description
OpenCities SaaS License	<p>The OpenCities platform allows you to launch modern, easy to use websites that evolve to put the needs of your community at the center. The SaaS License includes:</p> <ul style="list-style-type: none"> <li>• All OpenCities out of the box functionality (excluding optional/premium modules priced separately)</li> <li>• Platform setup and full project management</li> <li>• Managed cloud hosting via Microsoft AzureGov</li> <li>• Ongoing security updates</li> <li>• Ongoing product updates and enhancements</li> <li>• WCAG AA Accessibility maintained perpetually</li> <li>• 99.9% up-time guarantee and 24/7 support for Priority 1 issues (per SLA)</li> <li>• Comprehensive SLA and Support Ticketing system</li> </ul> <p>See subscription agreement for details.</p>
Communications Cloud - Online Training	Provides a balance of Product knowledge and industry best practices to a specific audience. Sessions are delivered by product experts via videoconferencing technology.
Communications Cloud - Setup and Configuration	<p>The Cloud is a Software-as-a-Service (SaaS) solution that enables government organizations to connect with more people. By leveraging the Cloud, the client will be able to utilize a number of different outreach mediums, including email, SMS/text messages, RSS feeds, and social media integration to connect with its target audiences. The Cloud setup and configuration includes:</p> <ul style="list-style-type: none"> <li>• The implementation consultant will be assigned to Recipient during the setup process for up to 90 days post-Communications Cloud project initiation.</li> <li>• Unlimited access to Web-based recorded trainings and online help for administrations on the following topics: standard Messaging, the GovDelivery Network, Automation, Mobile and Analytics</li> <li>• Up to 2 Web-hosted training sessions that must be used within 180 days of Kickoff</li> <li>• Up to 5 hours of message template and integration development that must be used within 90 days of Kickoff</li> </ul>

Solution	Description
Live Cast	govMeetings Live Cast provides the ability to manage public meetings from anywhere, on almost any device using cloud based software and a Granicus Live Cast encoder. It will stream public meetings in HD, allow users to live index items, record and publish minutes, and provide archive videos for on-demand viewing. <i>This is existing solution purchased by Client, which will continue under this Agreement under Government Experience Cloud (SERVE).</i>
Open Platform Suite	Open Platform is access to MediaManager, upload of archives, ability to post agendas/documents, and index of archives. These are able to be published and accessible through a searchable viewpage. <i>This is existing solution purchased by Client, which will continue under this Agreement under Government Experience Cloud (SERVE).</i>
Granicus Live Cast Encoding Software	Granicus Live Cast Software will convert the video feed for video streaming on the web which will also record video and provides the MP4 file for archive playback. <i>This is existing solution purchased by Client, which will continue under this Agreement under Government Experience Cloud (SERVE).</i>
Migration of existing Agendas <b>(Optional Solution)</b>	<b>Migration of 46 pages of agendas.</b>
GXG Writing for the Web Workshop <b>(Optional Solution)</b>	<p>Content is the most important element of a website. We believe in using best practices to standardize and promote consistency. There's no better time to completely revamp your content than when you're updating your website and moving to a new CMS. We'll teach your team how to undeniably sound like the agency and focus on the user, helping you mature your communications and services over time. Services include:</p> <ul style="list-style-type: none"> <li>• Workshop kick off: align on goals, dates, and participants / services</li> <li>• Services review: review every service selected to confirm workshop feasibility</li> <li>• One 3-hour workshop (remote)</li> </ul> <p>Sold as Firm Fixed Price (not Time &amp; Materials). Assumes a 2-week level of effort to be completed within the contract period. Assumes the client has manual PDFs or use another digital tool. NOT for clients that mainly use third party applications for all services. NOT for clients that have a centralized content creation model (1-2 Content Authors/Publishers for the entire website)</p>

Solution	Description
OpenForms Enterprise License (30 users, 100 forms)	<p>OpenForms is a digital forms builder specifically designed for Government. Government services can be complicated, but the experience for the residents accessing them shouldn't have to be. OpenForms is perfect for the business of government, with capabilities that will help you convert complex, multi-page forms and processes into simple, step-by-step online forms that adjust based on customers responses. The Enterprise plan to accelerate digital transformation for up to: 30 users, 100 published forms.</p> <p>Key features include:</p> <ul style="list-style-type: none"> <li>• Workspaces</li> <li>• Response workflows</li> <li>• Custom documents (Certificates, permits, formal letters &amp; more)</li> <li>• Form versioning &amp; scheduling</li> <li>• Drag and drop form builder</li> <li>• Display logic and calculations</li> <li>• Payments</li> <li>• Insights dashboard</li> <li>• Form analytics</li> <li>• Support team access</li> <li>• Save responses</li> <li>• Unlimited responses</li> <li>• Data connections and API access</li> <li>• Up to: 50GB file uploads, 2,000 web API calls per hour, 20 custom documents per form</li> </ul>
Setup and configuration package: OpenForms License	Setup and configuration of OpenForms
Training: OpenForms	2.5 hour OpenForms Training session for up to 25 people, delivered online.

Solution	Description
Advanced UX Analysis Package <b>(Optional Solution)</b>	Includes an in-depth User Experience (UX) Analysis of the client's website, which may include: <ul style="list-style-type: none"> <li>• Advanced Site Analytics: Identify and analyze top pages for desktop and mobile, entrance and exit pages</li> <li>• Online Community Surveys: Conduct and analyze the results of a stakeholder survey and a community survey</li> <li>• Heatmap Analysis: Capture and analyze heat maps and eye tracking maps</li> <li>• Recorded User Testing: Conduct remote video user testing for five (5) users on five (5) tasks</li> <li>• Comprehensive Report: Deliver a report outlining key insights and recommendations for layout, navigation, content and design for the new website which will serve as a guide for the rest of the design and development process</li> </ul>
Training - OpenCities <b>(Optional Solution)</b>	2.5 hour OpenCities training session for up to 20 people, delivered online, covering one of these topics: <ul style="list-style-type: none"> <li>• Site Admin training</li> <li>• Content Publisher training</li> <li>• Power Publisher training</li> </ul>

Solution	Description
GXG Information Architecture <b>(Optional Solution)</b>	<p>Updating your website's Information Architecture (IA) is key to improving the overall user experience. Our IA process involves website data analysis, user research and user testing, and other best-practice methodologies that serve to seamlessly bridge your goals with user needs. This effort will result in a strategic and scalable approach to content priorities, a development of a navigation structure for your new site, and the creation of an actionable implementation strategy for your existing content. Activities include:</p> <ul style="list-style-type: none"> <li>• Kickoff: Align on goals, expectations, timelines, and deliverables</li> <li>• Data Audit: We'll review surveys, Google Analytics, and any other piece of data to get a sense of how the website is currently utilized, what the user priorities are, and how the current content is meeting their needs.</li> <li>• User engagement: Conduct up to one (1) card sort with up to forty (40) external users OR up to one (1) tree test with up to forty (40) external users</li> </ul> <p>Deliverable:</p> <ul style="list-style-type: none"> <li>• Recommendations &amp; Implementation Report. Includes new Information Architecture map, connecting individual pages to their new categories and location in the site tree</li> </ul> <p>Assumptions:</p> <ul style="list-style-type: none"> <li>• Covers analysis and IA for sites with up to 2,500 URLs.</li> <li>• Three-month period of performance to be completed within the contract period.</li> <li>• Does NOT include a content audit.</li> <li>• Does NOT include content creation.</li> <li>• Client sources external users for testing. • Does NOT include document review.</li> </ul>
Training - OpenCities <b>(Optional Solution)</b>	<p>2.5 hour OpenCities training session for up to 20 people, delivered online, covering one of these topics:</p> <ul style="list-style-type: none"> <li>• Site Admin training</li> <li>• Content Publisher training</li> <li>• Power Publisher training</li> </ul>
Peak Agenda Management	<p>Peak Agenda Management is a Software-as-a-Service (SaaS) solution that enables government organizations to simplify the agenda management and minutes recording process of the clerk's office. Peak Agenda Management allows clerks to streamline the way they compile and produce agendas and record minutes for public meetings and includes:</p> <ul style="list-style-type: none"> <li>• Unlimited user accounts</li> <li>• Unlimited meeting bodies and meeting types</li> <li>• Access to up to one (1) Peak Agenda Management site</li> </ul> <p><i>This is existing solution purchased by Client, which will continue under this Agreement under Government Experience Cloud (SERVE).</i></p>
Send Agenda (Peak)	<p>Send Agenda is dependent on an active subscription to the relevant govMeetings agenda.</p>

## GRANICUS ADVANCED NETWORK AND SUBSCRIBER INFORMATION

- **Granicus Communications Suite Subscriber Information.**
  - Data provided by the Client and contact information gathered through the Client's own web properties or activities will remain the property of the Client ('Direct Subscriber'), including any and all personally identifiable information (PII). Granicus will not release the data without the express written permission of the Client, unless required by law.
  - Granicus shall: (i) not disclose the Client's data except to any third parties as necessary to operate the Granicus Products and Services (provided that the Client hereby grants to Granicus a perpetual, non-cancelable, worldwide, non-exclusive license to utilize any data, on an anonymous or aggregate basis only, that arises from the use of the Granicus Products by the Client, whether disclosed on, subsequent to, or prior to the Effective Date, to improve the functionality of the Granicus Products and any other legitimate business purpose, including the right to sublicense such data to third parties, subject to all legal restrictions regarding the use and disclosure of such information).
- **Data obtained through the Granicus Advanced Network.**
  - Granicus offers a SaaS product, known as the Communications Cloud, that offers Direct Subscribers recommendations to subscribe to other Granicus Client's digital communication (the 'Advanced Network'). When a Direct Subscriber signs up through one of the recommendations of the Advanced Network, that subscriber is a 'Network Subscriber' to the agency it subscribed to through the Advanced Network.
  - Network Subscribers are available for use while the Client is under an active subscription with Granicus. Network Subscribers will not transfer to the Client upon termination of any Granicus Order, SOW, or Exhibit. The Client shall not use or transfer any of the Network Subscribers after termination of its Order, SOW, or Exhibit placed under this agreement. All information related to Network Subscribers must be destroyed by the Client within 15 calendar days of the Order, SOW, or Exhibit placed under this agreement terminating.
  - Opt-In. During the last 10 calendar days of the Client's subscription, the Client may send an opt-in email to Network Subscribers that shall include an explanation of the Client's relationship with Granicus terminating and that the Network Subscribers may visit the Client's website to subscribe to further updates from the Client in the future. Any Network Subscriber that does not opt-in will not be transferred with the subscriber list provided to the Client upon termination.

## UPDATES TO SHARED SHORT CODES FOR SMS/TEXT MESSAGING (US CLIENTS ONLY):

- Granicus will be migrating all clients with SMS/Text Messaging Solutions using a shared short code option to a unique standard toll-free number within the United States (International numbers not supported). Short Codes are recommended for Text-to-Subscribe functionalities, if enabled where available, for an additional fee.
- Client must have explicit opt-in for all destinations sent to and adhere to all CTIA guidelines for the duration of its use.

## THIRD PARTY DISCLAIMER

**ClearCaster and LiveCast Services:** Client and Granicus agree that a third party will provide services under this Agreement. Client expressly understands that the third party is an independent contractor and not an agent or employee of Granicus. Granicus is not liable for acts performed by such an independent third party.

## TERMS & CONDITIONS

- This quote, and all products and services delivered hereunder are governed by the terms located at <https://granicus.com/legal/licensing>, including any product-specific terms included therein (the "License Agreement"). If your organization and Granicus has entered into a separate agreement or is utilizing a contract vehicle for this transaction, the terms of the License Agreement are incorporated into such separate agreement or contract vehicle by reference, with any directly conflicting terms and conditions being resolved in favor of the separate agreement or contract vehicle to the extent applicable.
- This quote is exclusive of applicable state, local, and federal taxes, which, if any, will be included in the invoice. It is the responsibility of Ames, IA to provide applicable exemption certificate(s).
- Any lapse in payment may result in suspension of service and will require the payment of a setup fee to reinstate the subscription.
- Upon the effective date, this Agreement shall supersede and replace any previous agreement between the parties for the Terminating and/or Existing Subscriptions listed herein. All such prior agreements between the parties are hereby void and of no force and effect.
- ClearCaster Terms & Conditions attached to this quote are incorporated herein by reference.
- Client will be invoiced for use of any product or service measured or capped by volume or amount of usage that exceeds the permitted amount set forth in this Quote at the same cost or rate set forth herein.
- **Updates to Shared Short Codes for SMS/Text Messaging:**  
Granicus will be migrating all clients with SMS/Text Messaging Solutions using a shared short code option to a unique standard toll-free number within the United States (International numbers not supported). Short Codes are recommended for Text-to-Subscribe functionalities, if enabled where available, for an additional fee. Client must have explicit opt-in for all destinations sent to and adhere to all CTIA guidelines for the duration of its use.
- Billing Frequency Notes (Milestones - 40/20/20/20): An initial payment equal to 40% of the total; A payment equal to 20% of the total upon Granicus' delivery of the draft homepage design concepts to the client; A payment equal to 20% of the total upon implementation of the main website into the VCMS on a Granicus-hosted development server; and A payment equal to 20% of the total upon completion; provided, however that the client has completed training. If the client has not completed training, then Granicus shall invoice the client at the earlier of: completion of training or 21 days after completion.
- If the term of this Agreement extends into fiscal years subsequent to that in which it is approved, such continuation of the Agreement is subject to the appropriation of funds for such purpose by the CITY. If funds to effect such continued payment are not appropriated, Contractor agrees to terminate any services supplied to the CITY under this agreement, and relieve the CITY of any further obligation therefore.



## BILLING INFORMATION


<b>Billing Contact:</b>		<b>Purchase Order Required?</b>	[ ] - No [ ] - Yes
<b>Billing Address:</b>		<b>PO Number:</b> <i>If PO required</i>	
<b>Billing Email:</b>		<b>Billing Phone:</b>	

### If submitting a Purchase Order, please include the following language:

*The pricing, terms, and conditions of quote Q-281251 dated 05 Sep 2023 are incorporated into this Purchase Order by reference and shall take precedence over any terms and conditions included in this Purchase Order.*

## AGREEMENT AND ACCEPTANCE

By signing this document, the undersigned certifies they have authority to enter the agreement. The undersigned also understands the services and terms.

Granicus, LLC	
<b>Signature:</b>	DocuSigned by:  8E342585D3714DF...
<b>Name:</b>	Brendan Stierman
<b>Title:</b>	Manager, Contracts
<b>Date:</b>	9/21/2023

Ames, IA	
<b>Signature:</b>	
<b>Name:</b>	
<b>Title:</b>	
<b>Date:</b>	



### ClearCaster Terms & Conditions

The ClearCaster products are subject to the following terms:

**Permitted Use.** Granicus hereby grants during each Order Term or as otherwise specified in the Order, and Customer hereby accepts, solely for its internal use, a worldwide, revocable, non-exclusive, non-transferrable right to use the ClearCaster products to the extent allowed in the relevant Order (collectively the “Permitted Use”). The Permitted Use shall also include the right, subject to the conditions and restrictions set forth herein, to use the ClearCaster products up to the levels limited in the applicable Order.

**Data Sources.** Data uploaded into ClearCaster products must be brought in from Customer sources (interactions with end users and opt-in contact lists). Customer cannot upload purchased contact information into the ClearCaster products without Granicus’ written permission and professional services support for list cleansing.

**Passwords.** Passwords are not transferable to any third party. Customer is responsible for keeping all passwords secure and all use of the the ClearCaster products accessed through Customer’s passwords.

**Content.** Customer can only use the ClearCaster products to share content that is created by and owned by Customer and/or content for related organizations provided that it is in support of other organizations but not as a primary communication vehicle for other organizations that do not have a Granicus subscription. Any content deemed inappropriate for a public audience or in support of programs or topics that are unrelated to Customer, can be removed or limited by Granicus.

**Disclaimers.** Any text, data, graphics, or any other material displayed or published on Customer’s website must be free from violation of or infringement of copyright, trademark, service mark, patent, trade secret, statutory, common law or proprietary or intellectual property rights of others. Granicus is not responsible for content migrated by Client or any third party.

**Advertising.** The ClearCaster products shall not be used to promote products or services available for sale through Customer or any third party unless approved in writing, in advance, by Granicus. Granicus reserves the right to request and review the details of any agreement between Customer and a third party that compensates Customer for the right to have information included in Content distributed or made available through the ClearCaster products prior to approving the presence of Advertising within the ClearCaster products.

**Restrictions.** Customer shall not:

- Misuse any Granicus resources or the ClearCaster products or cause any disruption, including but not limited to, the display of pornography or linking to pornographic material, advertisements, solicitations, or mass mailings to individuals who have not agreed to be contacted;
- Use any process, program, or tool for gaining unauthorized access to the systems, networks, or

accounts of other parties, including but not limited to, other Granicus customers;

- Customer must not use the Granicus products, services or the ClearCaster products in a manner in which system or network resources are unreasonably denied to other Granicus clients;
- Customer must not use the services or ClearCaster products as a door or signpost to another server.
- Access or use any portion of the ClearCaster products, except as expressly allowed by this Order;
- Copy, distribute, sublicense, or otherwise share, software provided on the ClearCaster products;
- Disassemble, decompile, or otherwise reverse engineer all or any portion of the ClearCaster products; or add or remove software on the ClearCaster products without Granicus consent;
- Use the ClearCaster products for any unlawful purposes;
- Export or allow access to the ClearCaster products in violation of U.S. laws or regulations;
- Except as expressly permitted in this Order, subcontract, disclose, rent, or lease the ClearCaster products, or any portion thereof, for third party use; or
- Modify, adapt, or use the ClearCaster products to develop any software application intended for resale which uses the ClearCaster products in whole or in part.

**Customer Feedback.** Customer assigns to Granicus any suggestion, enhancement, request, recommendation, correction or other feedback provided by Customer relating to the use of the ClearCaster products. Granicus may use such submissions as it deems appropriate in its sole discretion.

**Reservation of Rights.** Subject to the limited rights expressly granted hereunder, Granicus and/or its licensors reserve all right, title and interest in the ClearCaster products, the documentation and resulting product including all related intellectual property rights. Further, no implied licenses are granted to Customer. The Granicus name, the Granicus logo, and the product names associated with the services are trademarks of Granicus or its suppliers, and no right or license is granted to use them.

**License to Content; Access.** Customer hereby grants Granicus and its vendors a limited right and license to view, access, use, modify, adapt, reproduce, transmit, distribute, display, and disclose Content for the sole purpose of providing the ClearCaster products. Customer agrees that Granicus and its vendors may remotely access the ClearCaster products for the sole purpose of providing Granicus products and services, and the ClearCaster products.



**Warranties and Disclaimers.** The ClearCaster products are provided "AS IS" and as available. EACH PARTY HEREBY DISCLAIMS ANY AND ALL OTHER WARRANTIES OF ANY NATURE WHATSOEVER WHETHER ORAL AND WRITTEN, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. NEITHER GRANICUS NOR ITS SUPPLIERS WARRANT THAT THE CLEARCASTER PRODUCTS WILL MEET CUSTOMER'S REQUIREMENTS NOR THAT THE OPERATION THEREOF WILL BE UNINTERRUPTED OR ERROR FREE.

Notwithstanding the foregoing and subject to payment of all applicable fees, Granicus will provide a three (3) year warranty with respect to required hardware. Within the three (3) year warranty period, Granicus shall repair or replace any required hardware provided directly from Granicus that fails to function properly due to normal wear and tear, defective workmanship, or defective materials.

**EXCLUSION OF CONSEQUENTIAL AND RELATED DAMAGES.** UNDER NO CIRCUMSTANCES SHALL GRANICUS NOR ITS SUPPLIERS BE LIABLE FOR ANY SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, GRANICUS NOR ITS SUPPLIER SHALL BE LIABLE FOR: (A) ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF CUSTOMER DATA; (B) COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES, TECHNOLOGY, OR HARDWARE; (C) LOSS OF BUSINESS; (D) DAMAGES ARISING OUT OF ACCESS TO OR INABILITY TO ACCESS THE SERVICES, SOFTWARE, CONTENT, HARDWARE, CLEARCASTER PRODUCTS, OR RELATED TECHNICAL SUPPORT; OR (E) FOR ANY MATTER BEYOND GRANICUS' REASONABLE CONTROL, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**LIMITATION OF LIABILITY.** IN NO INSTANCE SHALL EITHER PARTY'S LIABILITY TO THE OTHER PARTY FOR DIRECT DAMAGES RESULTING EXCLUSIVELY FROM THE CLEARCASTER PRODUCTS (WHETHER IN CONTRACT OR TORT OR OTHERWISE) EXCEED THE FEES PAID BY CUSTOMER FOR GRANICUS PRODUCTS AND SERVICES DURING THE SIX (6) MONTHS IMMEDIATELY PRECEDING THE DATE THE DAMAGED PARTY NOTIFIES THE OTHER PARTY IN WRITING OF THE CLAIM FOR DIRECT DAMAGES. NEITHER PARTY MAY INSTITUTE AN ACTION IN ANY FORM ARISING OUT OF NOR IN CONNECTION WITH THE CLEARCASTER PRODUCTS MORE THAN TWO (2) YEARS AFTER THE CAUSE OF ACTION HAS ARISEN.

## Master Subscription Agreement US/Canada

This Master Subscription Agreement (“**Agreement**”) is effective as of the date an Order or SOW (as defined below) commences (“**Effective Date**”) between the party procuring Granicus Products and/or Services (“**Client**”) and Granicus, LLC, a Minnesota Limited Liability Company (“**Granicus**”).

**1. Definitions.** For the purpose of this Agreement, the following terms have the corresponding definitions:

“**Content**” means any material or data: (i) displayed or published on Client’s website; (ii) provided by Client to Granicus to perform the Services; or (iii) uploaded into Products.

“**Products**” means the online or cloud subscription services, on premise software, and embedded software licensed to Client, and hardware components purchased by Client under this Agreement;

“**IP Rights**” means all current and future worldwide statutory or other proprietary rights, whether registered or unregistered, including but not limited to, moral rights, copyright, trademarks, rights in designs, patents, rights in computer software data base rights, rights in know how, mask work, trade secrets, inventions, domain or company names and any application for the foregoing, including registration rights.

“**Order**” means a binding proposal, written order, or purchasing document setting forth the Products made available to Client pursuant to this Agreement;

“**Services**” means the consulting, integration, installation, and/or implementation services to be performed by Granicus as described in the SOW;

“**SOW**” means a statement of work agreed to by the parties that references this Agreement and describes the Services and Deliverables provided as part of a Services engagement pursuant to the Services provisions set forth in this Agreement; and

## **2. Intellectual Property Ownership and Use Rights.**

a) **Intellectual Property Ownership.** Granicus and its licensors own all IP Rights in the Products. Client and its authorized users have no right, title or interest in the Products other than the license rights expressly granted herein. All rights not expressly granted in the Products are reserved by Granicus or its licensors.

b) **License to Products.** Granicus hereby grants Client a non-exclusive, non-transferable license to access and use the Products identified in the Order during the Term set forth therein. In addition to the terms of this Agreement and the Order, product-specific license terms applicable to certain of the Products can be found at [granicus.com/legal/licensing](https://granicus.com/legal/licensing) and are hereby incorporated into this Agreement

by reference. Granicus reserves all right, title and interest in and to all Granicus Products, including all rights not expressly granted to Client under this Agreement.

c) **Third Party Contractors.** Client may permit its third-party contractors to access and use the Products solely on behalf of and for the benefit of Client, so long as: (i) such contractor agrees to comply with this Agreement as if it were Client; (ii) Client remains responsible for each contractor's compliance with this Agreement and any breach thereof; and (iii) all volume or transaction-based use of the Products includes use by contractors. All rights granted to any contractor terminate immediately upon conclusion of the Services rendered to Client that give rise to such right. Upon termination of such rights, contractor will immediately cease all use of the Products and uninstall and destroy all confidential or proprietary Granicus information in its possession. Client will certify compliance with this section in writing upon Granicus' request.

d) **Data Sources.** Client may only upload data related to individuals that originates with or is owned by Client. Client shall not upload data purchased from third parties without Granicus' prior written consent and list cleansing Services provided by Granicus for an additional fee. Granicus will not sell, use, or disclose any personal information provided by Client for any purpose other than performing Services subject to this Agreement.

e) **Content.** Client can only use Products to share Content that is created by or owned by Client and/or Content for affiliated organizations, provided that use by Client for affiliated organizations is in support only, and not as a primary communication vehicle for such organizations that do not have their own license to the Products. Granicus is not responsible for any Content used, uploaded or migrated by Client or any third party.

f) **Advertising.** Client shall not use Products to promote products or services available for sale through Client or any third party without Granicus' prior written consent.

g) **Restrictions.** Client shall not:

- (i) Use or permit any end user to use the Products to store or display adult content, promote illegal or immoral activities, send or store infringing, obscene, threatening or unlawful or tortious material or disrupt others use of the Products, network services or network equipment, including unsolicited advertising or chain letters, propagation of computer worms and viruses, or use of the Products to make unauthorized entry into any other device accessible via the network or Products;
- (ii) Use the Products as a door or signpost to another server;

- (iii) Disassemble, decompile, reverse engineer or make derivative works of the Products;
- (iv) Rent, lease, lend, or host the Products to or for any third party, or disclose the Products to any third party except as otherwise permitted in this Agreement or an Order or SOW;
- (v) Use the Products in violation of any applicable law, rule, or regulation, including violation of laws regarding the processing, use, or disclosure of personal information, or violation of any United States export control or regulation, United States embargo, or denied or sanctioned parties prohibitions; or
- (vi) Modify, adapt, or use the Products to develop any software application intended for resale which uses or competes with the Products in whole or in part.

### 3. Term; Termination.

- a) **Agreement Term.** This Agreement begins on the Effective Date and remains in effect for the period set out in the Order ("**Initial Term**"). Thereafter, this Agreement will continue in effect until all Orders or SOWs have expired or been terminated.
- b) **Order Term.** Each Order will be effective on the date set out therein and will remain in effect during the Initial Term identified in such Order. Each Order will automatically renew for twelve (12) month terms (each, a "**Renewal Term**") unless either party gives the other party notice of non-renewal at least sixty (60) days prior to the end of the applicable Term of the Order. The Initial Term and all Renewal Terms are collectively, the "**Term**".
- c) **SOW Term.** Each SOW will begin on the effective date of the SOW and will remain in effect until the Services are completed, this Agreement is terminated, or the termination date set out in the SOW (the "**Termination Date**"), whichever is later. If no specific Termination Date is designated in the SOW, Client may terminate the SOW upon thirty (30) days written notice to Granicus.
- d) **Termination for Default.** Either party may terminate this Agreement or any Order or SOW by written notice if the other party commits a material breach of this Agreement or the applicable Order or SOW and fails to cure such breach within thirty (30) days after receipt of such notice, or an additional period of time as agreed to by the parties.
- e) **Effect of Termination.** Upon expiration or termination of an Order or SOW for any reason: (i) Client's right to access and use the Products will immediately cease (except for perpetual licenses granted under an Order, which will continue to be governed by this Agreement for the duration of the license); (ii) Client will promptly remit any fees due to Granicus under all Orders and SOWs; (iii) Granicus will promptly

cease performance of any Services; and (iv) the parties will return or destroy any Confidential Information of the other party in its possession, and certify upon request to the other party of compliance with the foregoing. Client will have thirty (30) days from the expiration date of a subscription to extract or download any Content stored in the Products. Granicus has no obligation to retain any Content after such thirty (30)-day period nor is Granicus responsible for extracting the data on Client's behalf absent separate written agreement and the payment of additional fees.

f) **Survival.** Sections 4 (Fees, Payment), 9 (Confidentiality), 10 (Indemnification), 11 (Limitation of Liability), 13 (Governing Law) and any other clause that by its nature is intended to survive will survive termination of this Agreement indefinitely or to the extent set out therein.

#### 4. Fees; Payment.

a) **Fees.** Client will pay all fees, costs and other amounts as specified in each Order or SOW. Annual fees are due upfront at the beginning of each annual term. Services fees and one-time fees are due according to the billing frequency specified in each Order or SOW. Granicus may suspend Client's access to any Products if there is a lapse in payment not remedied promptly upon notice to Client. A lapse in the Term of each Order or SOW will require the payment of a setup fee to reinstate the subscription. All fees are exclusive of applicable state, local, and federal taxes, which, if any, will be included in the invoice. It is Client's responsibility to provide applicable exemption certificate(s).

b) **Payment.** Client will remit payment of the fees due within thirty (30) days of receipt of an accurate invoice from Granicus or its authorized reseller, or if Client is subject to different payment terms imposed by applicable regulation, such required payment duration. Any disputed amounts will be identified in writing to Granicus within the payment period or be deemed accurate and payable. With respect to any amount due to Granicus which is not paid within thirty (30) days of an undisputed invoice, Granicus may apply interest at the rate of one and half percent (1.5%) per month, or such lesser amount required by law, assessed from the due date through the date of payment. Client acknowledges and agrees that orders placed by Client for Products and Services will be non-cancellable and the fees paid are non-refundable unless otherwise expressly stated in the Agreement.

c) **Purchase Orders.** Upon request, Granicus will reference a purchase order number on its invoices if Client provides the corresponding purchase order information to Granicus prior to generating the invoice. Client agrees that a failure to provide Granicus with purchase order information will not relieve Client of its obligations to provide payment in accordance with this section.

d) **Price Changes.** Subject to any price schedule or pre-negotiated fees to which this Agreement or an Order may be subject, Granicus will provide notice of any price changes at least ninety (90) days prior to the end of the current Term, which will become effective as of the next Renewal Term. Renewals at the same volume amount will not increase more than ten percent (10%) over the prior year's fees.

Purchases of additional Products will be at Granicus' then-current price and licenses, subject to volume or transaction metrics, and will be reviewed annually prior to commencement of the Renewal Term, with fees adjusted to cover increases in Client's use.

e) **Cooperative Purchasing.** To the extent permitted by law the terms of this Agreement may be extended for use by other municipalities, school districts and governmental agencies. Orders and SOWs entered into by such third parties are independent agreements between the third party and Granicus and do not affect this Agreement or any Order or SOW between Granicus and Client.

## 5. Client Responsibilities.

a) **Content.** Client will be solely responsible for the Content submitted to the Products and will comply with all laws, rules and regulations relating to the use, disclosure and transmission of such Content, including providing such to Granicus. Client represents and warrants it has the legal right to provide the Content to Granicus and that such use or disclosure does not violate the intellectual property, privacy or other legal rights of any third party. Client grants Granicus a limited, non-exclusive right during the Term to access and use the Content to provide the Products and Services. Content does not include user feedback related to the Products or Services, which Granicus is free to use without any further permission or consideration to Client. In addition, Content does not include data generated by use of the Products, including system data and data derived from Content in an aggregated and anonymized form, which may be used by Granicus for any and all business purposes including diagnostics and system and product improvements.

b) **Data Backup and Protection.** Client will maintain a back-up of any data or data files provided to Granicus. For certain Products, Granicus offers functionality that requires subscribers to enable password protection of subscriber profiles and associated data. Client assumes all responsibility for implementing and enforcing this security functionality in its sole discretion.

c) **Passwords.** Sign-on credentials used to access the Products are non-transferable. Client is responsible for keeping all passwords secure and for all use of the Products through Client's sign in credentials.

d) **Cooperation.** Client will provide any assistance reasonably required by Granicus to perform the Services, including timely review of plans and schedules for the Services and reasonable access to Client's offices for Services performed onsite.

e) **Third-Party Technology.** Client will be responsible for securing all licenses for third party technology necessary for Granicus to perform the Services (including the right for Granicus to use such technology) and will be responsible for the performance of any third-party providing goods or services to Client related to the Services, including such third party's cooperation with Granicus.

6. **Support.** Basic support and maintenance services provided to Client for Products ("Support") is included in the fees paid for the Granicus Product



subscription or maintenance during the Term and will be provided in accordance with the Service Level Agreement set forth at [www.granicus.com/legal/licensing](http://www.granicus.com/legal/licensing). Granicus may update its Support obligations under this Agreement, so long as the level of Support agreed to by the parties is not materially diminished due to such modification.

## 7. Representations; Warranties; Disclaimers.

a) **Representations.** Each Party represents that it has validly entered into this Agreement and has the legal power to do so.

b) **Warranties:**

(i) Each party warrants that it has the rights necessary to grant to the other party the licenses granted in this Agreement.

(ii) Granicus warrants that it will perform its obligations in a professional and workmanlike manner in accordance with industry standards.

(iii) Client's sole and exclusive remedy and Granicus' sole obligation for breach of the warranties in this Section are as follows: (i) for a breach of the warranty in Section 7.b.(i), the indemnity in Section 10 of this Agreement; and (ii) for a breach of the warranty in Section 7.b.(ii) reperformance of the non-conforming Services, provided that Client notifies Granicus of a non-conformity in this Section during the thirty (30) day period following Granicus' completion of the applicable Services.

c) **Disclaimers.** EXCEPT AS EXPRESSLY STATED IN THIS THIS SECTION, THE PRODUCTS AND SERVICES ARE PROVIDED "AS IS" AND GRANICUS DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. GRANICUS DOES NOT WARRANT THAT PRODUCTS OR SERVICES WILL MEET CLIENT'S REQUIREMENTS OR THAT THE OPERATION THEREOF WILL BE UNINTERRUPTED OR ERROR FREE.

## 8. Services.

a) Granicus will perform Services in accordance with this Agreement and the SOW. Granicus is not obligated to provide any Services unless set out in the SOW. Unless otherwise set out in the SOW or as agreed to by the parties the Services will be performed remotely. Any estimates provided in the SOW, including expected hours to complete the Services and any timeline provided by Granicus, are based on known functional requirements and technical environments as of the effective date of the SOW. Changes or delays in the work schedule originating with Client are subject to the project change procedure and may result in an increase in fees.

b) Granicus grants Client a non-exclusive, non-transferable, royalty-free, perpetual license to use the Deliverables on behalf of and for the benefit of Client independently and with the Products. Granicus retains all right, title and interest to

the Deliverables except for those rights expressly granted to Client and reserves all rights not otherwise expressly granted herein. Deliverables and Services are deemed accepted upon delivery unless otherwise set forth in a SOW. **“Deliverable(s)”** means any computer software, written documentation, reports or materials developed by Granicus specifically for Client pursuant to a SOW;

c) Any modifications to the Services must be in writing and signed by authorized representatives of each party. Granicus personnel performing Services at Client's offices will comply with Client's policies and procedures in effect at such location.

d) If agreed to by the Parties in the SOW, Client will also pay for all reasonable travel-related and out-of-pocket expenses incurred by Granicus in the performance of the Services in accordance with Client's travel and expense policy which will be provided to Granicus in writing (or Granicus' policy if none is provided by Client) and which will be billed monthly and due thirty (30) days following date of invoice.

**9. Confidentiality.** During performance of the Services, each party may receive Confidential Information of the other party.

a) **“Confidential Information”** means all confidential and/or trade secret information of either party (**“Disclosing Party”**), including but not limited to: (i) Granicus' Products; (ii) non-public information if it is clearly and conspicuously marked as “confidential” or with a similar designation at the time of disclosure; (iii) non-public information of the Disclosing Party if it is identified as confidential and/or proprietary before, during, or promptly after presentation or communication; and (iv) any information that should be reasonably understood to be confidential or proprietary given the nature of the information and the context in which disclosed, in each case that is disclosed to the other party (**“Receiving Party”**) or to which the Receiving Party gains access in connection with performance of the Services.

b) Subject to freedom of information, government transparency, or similar applicable law, each Receiving Party will receive and hold any Confidential Information in strict confidence and will: (i) protect and safeguard the Confidential Information against unauthorized use, publication or disclosure; (ii) not reveal, report, publish, disclose, transfer, copy or otherwise use any Confidential Information except as specifically authorized by the Disclosing Party; (iii) not use any Confidential Information for any purpose other than in performance of this Agreement; (iv) restrict access to Confidential Information to those of its advisors, officers, directors, employees, agents, consultants, contractors and lobbyists who have a need to know, who have been advised of the confidential nature thereof, and who are under express written obligations of confidentiality or under obligations of confidentiality imposed by law or rule; and (v) exercise at least the same standard of care and security to protect the confidentiality of the Confidential Information received by it as it protects its own confidential information, but no less than a reasonable degree of care.

c) If a Receiving Party is requested or required in a judicial, administrative, or governmental proceeding to disclose any Confidential Information, it will notify the

Disclosing Party as promptly as practicable so that the Disclosing Party may seek an appropriate protective order or waiver for that instance, unless such notification is prohibited by law or judicial order.

d) The foregoing obligations do not apply to information that: (i) is already public or becomes available to the public through no breach of this section; (ii) was in the Receiving Party's lawful possession before receipt from the Disclosing Party; (iii) is lawfully received independently from a third party who is not bound by a confidentiality obligation; or (iv) is independently developed by or on behalf of the Receiving Party without use of any Confidential Information.

e) Upon written request of the Disclosing Party, the Receiving Party agrees to promptly return or destroy all Confidential Information in its possession, and certify its destruction in writing, provided that the Receiving Party may retain a copy of the returned or destroyed items for archival purposes in accordance with its records retention policies and subject to this section.

f) Disclosing Party may be irreparably damaged if the obligations under this section are not enforced and as such may not have an adequate remedy in the event of a breach by Receiving Party of its obligations hereunder. The parties agree, therefore, that Disclosing Party is entitled to seek, in addition to other available remedies, an injunction restraining any actual, threatened or further breaches of the Receiving Party's obligations under this section or any other appropriate equitable order or decree.

## **10. Indemnification.**

a) Granicus will defend, indemnify and hold Client harmless from and against all losses, liabilities, damages and expenses including reasonable attorney fees (collectively, "Losses") arising from any claim or suit by an unaffiliated third party that the Products or Deliverables, as delivered to Client and when used in accordance with this Agreement and the applicable Order or SOW, infringes a valid U.S. copyright or U.S. patent issued as of the date of the applicable Order or SOW (a "Claim").

b) To the extent permitted by applicable law, Granicus will have control of the defense and reserves the right to settle any Claim. Client must notify Granicus promptly of any Claim and provide reasonable cooperation to Granicus, upon Granicus' request and at Granicus' cost, to defend such Claim. Granicus will not agree to any settlement which requires acknowledgment of fault or an incurred liability on the part of an indemnified party not otherwise covered by this indemnification without indemnified party's prior consent. Client may elect to participate in the defense of any claim with counsel of its choosing at its own expense.

c) If the Products or Deliverables are subject to a claim of infringement or misappropriation, or if Granicus reasonably believes the Products or Deliverables may be subject to such a Claim, Granicus reserves the right, in its sole discretion, to:

(i) replace the affected Products or Deliverable with non-infringing functional equivalents; (ii) modify the affected Products or Deliverable to render it non-infringing; or (iii) terminate this Agreement or the applicable Order or SOW with respect to the affected Granicus Product or Deliverable and refund to Client any prepaid fees for the then-remaining portion of the Order or SOW Term.

d) Granicus will have no obligation to indemnify, defend, or hold Client harmless from any Claim to the extent it is based upon: (i) a modification to the Granicus Product or Deliverable by anyone other than Granicus; (ii) a modification made by Granicus pursuant to Client's required instructions or specifications or in reliance on materials or information provided by Client; (iii) combination with the Products or Deliverable with non-Granicus software or data; or (iv) Client's (or any authorized user of Client) use of any Products or Deliverables other than in accordance with this Agreement.

e) This section sets forth Client's sole and exclusive remedy, and Granicus' entire liability, for any Claim that the Products, Deliverables or any other materials provided by Granicus violate or infringe upon the rights of any third party.

## 11. Limitation of Liability.

a) EXCEPT FOR LIABILITY THAT CANNOT BE LIMITED OR EXCLUDED UNDER APPLICABLE LAW, UNDER NO CIRCUMSTANCES WILL EITHER PARTY BE LIABLE FOR ANY: (I) SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES; OR (II) LOSS OR DAMAGE TO DATA, LOST PROFITS, SALES, BUSINESS, GOODWILL OR ANTICIPATED SAVINGS, WHETHER AN ACTION IS IN CONTRACT OR TORT (INCLUDING NEGLIGENCE) AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

b) IN NO EVENT, EXCEPT FOR CLIENT'S OBLIGATIONS TO PAY AMOUNTS DUE UNDER THE ORDER OR SOW, OR GRANICUS' INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 10 (INDEMNIFICATION), WILL EITHER PARTY'S MAXIMUM AGGREGATE LIABILITY FOR ALL CLAIMS ARISING IN CONNECTION WITH THIS AGREEMENT (IN TORT (INCLUDING NEGLIGENCE), CONTRACT OR OTHERWISE) EXCEED THE AMOUNT OF FEES PAID BY CLIENT TO GRANICUS IN THE SIX (6) MONTHS IMMEDIATELY PRECEDING THE DATE THE DAMAGED PARTY NOTIFIES THE OTHER PARTY IN WRITING OF THE CLAIM. HOWEVER, IF CLIENT HAS PAID NO FEES UNDER THE TERMS OF AN ORDER IN THE TWELVE (12) MONTH PERIOD PRECEDING THE DATE OF THE INCIDENT GIVING RISE TO THE CLAIM, THE AGGREGATE LIABILITY OF GRANICUS TO CUSTOMER FOR SUCH CLAIM SHALL NOT EXCEED FIVE THOUSAND DOLLARS (\$5,000).

## 12. General.

a) **Force Majeure.** With the exception of payment obligations, any delay in the performance by either party of its obligations hereunder will be excused when such delay in performance is due to any cause or event of any nature whatsoever beyond the reasonable control of such Party, including, without limitation, any act of God; any fire, flood, or weather condition; any computer virus, worm, denial of

service attack; any earthquake; any act of a public enemy, war, insurrection, riot, explosion or strike; provided, that written notice thereof must be given by such Party to the other Party within twenty (20) days after occurrence of such cause or event.

b) **Independent Contractor.** Each party is an independent contractor and employees of each party are not considered to be employees of the other party. No agency, partnership, joint venture or other joint relationship is created by this Agreement. The parties shall not make any commitments binding on the other or make any representation that they are acting for, or on behalf of, the other. Each party assumes full responsibility for the actions of its personnel while performing the Services and such party will be solely responsible for the supervision, daily direction, control of its personnel, and for the payment of all of their compensation and any taxes related thereto.

c) **Publicity.** Neither party will use the name of the other party in publicity releases or similar activity without the consent of the other party, except Granicus may include Client's name and logo in client lists and similar communications.

d) **Waiver.** No waiver of any breach of any provision of this Agreement or the SOW by either party or the failure of either party to insist on the exact performance of any provision of this Agreement or the SOW will constitute a waiver of any prior, concurrent or subsequent breach of performance of the same or any other provisions hereof, and no waiver will be effective unless made in writing.

e) **Notices.** Other than routine administrative communications, which may be exchanged by the Parties via email or other means, all notices, consents, and approvals hereunder will be in writing and will be deemed to have been given upon: (i) personal delivery; (ii) the day of receipt, as shown in the applicable carrier's systems, if sent via FedEx, UPS, DHL, or other nationally recognized express carrier; (iii) the third business day after sending by U.S. Postal Service, First Class, postage prepaid, return receipt requested; or (iv) sending by email, with confirmed receipt from the receiving party. Either Party may provide the other with notice of a change in mailing or email address in which case the mailing or email address, as applicable, for that Party will be deemed to have been amended. Client's mailing and email address are as set forth in the Order. The mailing and email address of Granicus is as follows:

<b>Granicus</b>
Contracts
408 St. Peter Street, Suite 600, Saint Paul, MN 55102

(651) 757-4154
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contracts@granicus.com
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f) **Severability.** If any provision of this Agreement, Order, or SOW, or portion thereof, is held to be invalid, illegal or unenforceable by a court of competent jurisdiction, such provision will be severed and the remaining provisions of the Agreement, Order or SOW will remain in full force and effect.

g) **Assignment.** Neither Party may assign, delegate, or otherwise transfer this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party (such consent not to be unreasonably withheld); provided that either Party may assign this Agreement with reasonable notice to the other party to an affiliate or to a successor in interest resulting from acquisition of all, or substantially all, of the assigning party's business by means of merger, stock or asset purchase, or otherwise. Any assignment or attempted assignment in violation of this Agreement will be null and void.

h) **Amendment.** This Agreement may not be amended or modified except by a written instrument signed by authorized representatives of both Parties.

i) **Applicable Law.** Each party will, at all times, exercise its rights and perform its obligations under this Agreement in compliance with all applicable law, rules, and regulations.

j) **Headings.** The various section headings of this Agreement are inserted only for convenience of reference and are not intended, nor will they be construed to modify, define, limit, or expand the intent of the Parties.

k) **No Third-Party Beneficiaries.** This Agreement is binding upon and insures solely to the benefit of the Parties hereto and their respective permitted successors and assigns; there are no third-party beneficiaries to this Agreement.

**13. Governing Law.** If Client is a public entity (a state or any agency or authority thereof, or county, city or town, public educational institution or other entity that serves a public purpose), this Agreement will be governed by and construed in accordance with the laws of the state in which the public entity is located, with venue being a court of competent jurisdiction within such state. If Client is the Federal government of the United States or any branch or agency thereof, this Agreement will be governed by the laws of the United States with venue being any Federal district court of competent jurisdiction. If Client is a private or commercial entity, this Agreement will be governed by the laws of the state of New York, without reference to the state's conflict of law principles, with exclusive jurisdiction of the state and federal courts located in the borough of Manhattan, New York, New York. If Client is located in Canada, this Agreement will be governed by the laws of the Province of Ontario with suit brought only in the General Division of the Ontario Court of Justice. No applicable principals of conflicts of laws, imputed terms of the Uniform

Commercial Code, or the United Nations Convention on contracts for the international sale of goods will apply to this Agreement.

**14. Entire Agreement.** This Agreement and Orders and SOWs governed by this Agreement constitutes the entire agreement between Granicus and Client, and supersedes all prior agreements, requests for proposals or pricing and the corresponding responses, understandings, representations or correspondence relevant to the subject matter hereof. Perpetual licenses granted to Client under prior agreements remain in full force and effect. Inconsistencies between documents will be resolved in the following order: (i) this Agreement; (ii) Orders and SOWs; (iii) all other purchase documents executed by the parties (except for any pre-printed or standard terms contained on purchase orders which shall have no force or effect); (iv) Granicus' response to Client's RFI, RFP, RFQ; and (v) Client's RFI, RFP, RFQ. If Client issues a purchase order, Granicus hereby rejects any additional or conflicting terms appearing on the purchase order or any other ordering materials submitted by Client. Client has not been induced to enter into this Agreement or the SOW by any representations or promises not specifically stated herein.

## Professional Services Agreement

This Professional Services Agreement (“**Agreement**”) is effective as of the date a SOW (as defined below) commences (the “**Effective Date**”) by and between the party procuring Services from Granicus (“**Client**”) and Granicus, LLC, a Minnesota Limited Liability Company (“**Granicus**”).

**1. Definitions.** In addition to terms defined elsewhere in this Agreement, the following terms will have the meaning specified:

“**Content**” means text, data, graphics, personal information or any other material: (i) displayed or published on Client’s website; (ii) provided by Client to Granicus to perform the Services; or (iii) uploaded into Granicus Products for use by Client or end users of the Granicus Products.

“**Deliverable(s)**” means any computer software, written documentation, reports or materials developed by Granicus specifically for Client pursuant to a SOW;

“**Granicus Products**” means the products and subscription services licensed to Client under separate agreement which may include online or cloud subscription services, on premise software, or required equipment or hardware components in conjunction with which the Services set forth in the SOW may be performed;

“**Services**” means the consulting, integration, installation and/or implementation services to be performed by Granicus as described in the SOW;

“**SOW**” means the Statement of Work agreed to by the parties that references this Agreement and describes the Services and Deliverables; and

“**Warranty Period**” means the thirty (30) day period following completion of the Services.

**2. Services.**

a) Granicus will perform the Services in accordance with this Agreement and the SOW. Granicus is not obligated to provide any Services unless set out in the SOW. Unless otherwise set out in the SOW or as agreed to by the parties, Granicus will commence performance of the Services fifteen (15) business days following execution of the SOW and the Services will be performed remotely. Changes or delays in the work schedule originating with Client are subject to the project change procedure and may result in an increase in fees.

b) For a time and materials engagement, Granicus estimates that the Services will be completed in approximately the number of hours set out in the SOW. Granicus does not represent, however, that the Services will be completed within the number of hours specified therein. Any estimates provided in the SOW, including expected hours to complete the Services and any timeline provided by Granicus, are based on known functional requirements and technical environments as of the effective date of the SOW.



c) Granicus grants Client a non-exclusive, non-transferable, royalty-free, perpetual license to use the Deliverables on behalf of and for the benefit of Client independently and with the Granicus Products. Granicus retains all right, title and interest to the Deliverables except for those rights expressly granted to Client and reserves all rights not otherwise expressly granted herein. Deliverables and Services are deemed accepted upon delivery unless otherwise set forth in a SOW.

d) Any modifications to the Services must be in writing and signed by authorized representatives of each party. The modifications may be set forth in a project change request or other document agreed to by the parties in writing. Granicus personnel performing Services at Client's offices will comply with Client's policies and procedures in effect at such location.

e) Cooperative Purchasing. To the extent permitted by law and approved by Client, the terms of this Agreement may be extended for use by other municipalities, school districts and governmental agencies upon execution of SOW by the extended party.

### **3. Fees; Expenses.**

a) Client will pay Granicus the fees set out in the SOW or other executed order document (as applicable) for all Services performed by Granicus, and all taxes related thereto (if applicable). All fees are due within thirty (30) days of receipt of an invoice from Granicus or in accordance with Client's prompt payment statutes.

b) Billing Schedule. Fees will be invoiced to Client based on one of the following billing options, as indicated in the SOW:

- (i) Time and Materials: For engagements with a time and materials billing schedule, invoices will be issued monthly in arrears as Services are performed, based on the hourly or daily rate set forth in the SOW or other executed order document.
- (ii) Fixed Cost: Invoices will be issued upon delivery of milestones, or in accordance with a billing schedule set forth in the SOW or other executed order document.

c) Client will also pay for all reasonable travel-related and out-of-pocket expenses incurred by Granicus in the performance of the Services in accordance with Client's travel and expense policy which will be provided to Granicus in writing (or Granicus' policy if none is provided by Client) and which will be billed on a monthly basis and due thirty (30) days following date of invoice.

d) Granicus will provide Client with a monthly project status report accounting for Services delivery and (if applicable) the number of hours of Services performed in the prior month, and the expenses incurred in performance of the Services.

### **4. Client Obligations.**

- a) Client will provide any assistance reasonably required by Granicus to perform the Services, including timely review of plans and schedules for the Services and reasonable access to Client's offices for Services performed onsite.
- b) Client will designate a project manager for the Services. The project manager will have the authority to make decisions on behalf of Client with respect to changes in the Services, resource allocation, expenditures, resolution of issues, scope changes and other matters involving the Services.
- c) Client will maintain a back-up of any data or data files provided to Granicus.
- d) Client will be responsible for securing all licenses for third party technology necessary for Granicus to perform the Services (including the right for Granicus to use such technology) and will be responsible for the performance of any third-party providing goods or services to Client related to the Services, including such third party's cooperation with Granicus.

## **5. Warranty.**

- a) The Services will be performed in a professional and workmanlike manner in accordance with generally accepted industry standards for the software consulting industry. Granicus will use reasonable commercial efforts to complete the Services in accordance with the SOW. If the Services fail to comply with this warranty during the Warranty Period, Client will promptly notify Granicus in writing specifying in reasonable detail any alleged non-conformities in the Services. Upon receipt of notice and a determination that the Services did fail to comply with this warranty, Granicus will, as Client's remedy, promptly re-perform any such Services in accordance with the SOW and this Agreement.
- b) THE WARRANTIES SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE AND GRANICUS DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COURSE OF DEALING OR COURSE OF PERFORMANCE.

## **6. Confidentiality.** During performance of the Services, each party may receive Confidential Information of the other party.

- a) "Confidential Information" means all confidential and/or trade secret information of either party ("Disclosing Party"), including but not limited to: (i) Granicus' Products; (ii) non-public information if it is clearly and conspicuously marked as "confidential" or with a similar designation at the time of disclosure; (iii) non-public information of the Disclosing Party if it is identified as confidential and/or proprietary before, during, or promptly after presentation or communication; and (iv) any information that should be reasonably understood to be confidential or proprietary given the nature of the information and the context in which disclosed, in each case that is disclosed to the other party ("Receiving Party") or to which the Receiving Party gains access in connection with performance of the Services.

b) Subject to applicable freedom of information or other similar law, the Receiving Party agrees: (i) to hold the Disclosing Party's Confidential Information in strict confidence, apply at least the standard of care used by the Receiving Party in protecting its own Confidential Information, but not less than a reasonable standard of care, and not to disclose such Confidential Information to any third party; and (ii) without the written permission of the Disclosing Party, not to use any Confidential Information of the Disclosing Party except as reasonably required to exercise its rights or perform its obligations under this Agreement and the SOW. Each party agrees to cause its employees, subcontractors, agents and affiliates who require access to such information to abide by such obligations.

c) The foregoing obligations do not apply to information that: (i) is already public or becomes available to the public through no breach of this Section 6; or (ii) was in the Receiving Party's lawful possession before receipt from the Disclosing Party; or (iii) is lawfully received independently from a third party who is not bound by a confidentiality obligation; or (iv) is independently developed by or on behalf of the Receiving Party without use of any Confidential Information.

d) If a Receiving Party is compelled to disclose the Confidential Information by applicable law, a governmental agency, or a court of law having proper jurisdiction, the Receiving Party will give the Disclosing Party reasonable notice as permitted by law to enable such party to try to protect the confidentiality of the Confidential Information.

e) Upon written request of the Disclosing Party, the Receiving Party agrees to promptly return or destroy all Confidential Information in its possession, and certify its destruction in writing, provided, however, that the Receiving Party may retain a copy of the returned or destroyed items for archival purposes in accordance with its records retention policies and subject to this Section 6.

f) Disclosing Party may be irreparably damaged if the obligations under this Section 6 are not enforced and as such may not have an adequate remedy in the event of a breach by Receiving Party of its obligations hereunder. The parties agree, therefore, that Disclosing Party is entitled to seek, in addition to other available remedies, an injunction restraining any actual, threatened or further breaches of the Receiving Party's obligations under this Section 6 or any other appropriate equitable order or decree.

## **7. Indemnification.**

a) Granicus will indemnify, defend and hold Client, its officers, directors and employees, harmless from all losses, damages, and reasonable costs and expenses to the extent they arise out of a claim by a third party that the Deliverables or Services, as delivered by Granicus, infringe or misappropriate any copyright, trade secret, trademark or patent registered or valid within the country the Deliverables are authorized to be used. To the extent permitted by applicable law, Granicus will have control of the defense and will defend at its own expense, any claim or litigation to which this indemnity relates, including the right to settle any such claim.

Client must notify Granicus promptly of any such claim and provide reasonable cooperation to Granicus, upon Granicus's request and at Granicus's cost, to defend such claim. Granicus will not agree to any settlement which requires acknowledgment of fault or an incurred liability on the part of an indemnified party not otherwise covered by this indemnification without the indemnified party's prior consent. Client may elect to participate in the defense of any claim with counsel of its choosing at its own expense.

b) If the Deliverables are subject to a claim of infringement or misappropriation, or if Granicus reasonably believes that the Deliverables may be subject to such a claim, Granicus will: (i) replace the Deliverables with a functional non-infringing equivalent; (ii) modify such Deliverables while retaining substantively equivalent functionality; or (iii) procure at no cost to Client the right to continue to use such Deliverables. If, however, Granicus determines that none of the foregoing alternatives are commercially reasonable, Granicus may terminate Client's license to the Deliverables and Granicus will, as Client's remedy, refund to Client the fees paid for such Deliverable.

c) Granicus will have no obligation to defend or indemnify Client under this Section 7 if the infringement or misappropriation results from: (i) modifications to the Deliverables by anyone other than Granicus; (ii) combination, operation, or use of the Deliverables with Client's equipment or non- Granicus software programs, or any use of Client Content by Granicus or the Deliverables, if such claim of infringement or misappropriation would have been avoided had such combination, operation or use not occurred; (iii) Client's failure to implement modifications (which if delivered to Client expressly to avoid infringement, will be delivered at no additional cost to Client and which will provide substantially the same functionality as the infringing or potentially infringing Deliverables); or (iv) Services performed or Deliverables developed at the direction of Client, where Client specifies the means, manner or method of performing the Services or developing the Deliverables and to the extent Granicus did not exercise its independent judgment and discretion in performing the Services or developing the Deliverables.

## **8. Limitation of Liability.**

a) EXCEPT FOR LIABILITY THAT CANNOT BE LIMITED OR EXCLUDED UNDER APPLICABLE LAW, UNDER NO CIRCUMSTANCES WILL EITHER PARTY BE LIABLE FOR ANY: (I) SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES; OR (II) LOSS OR DAMAGE TO DATA, LOST PROFITS, SALES, BUSINESS, GOODWILL OR ANTICIPATED SAVINGS, WHETHER AN ACTION IS IN CONTRACT OR TORT (INCLUDING NEGLIGENCE) AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

b) IN NO EVENT, EXCEPT FOR CLIENT'S OBLIGATIONS TO PAY AMOUNTS DUE UNDER THE SOW, OR GRANICUS' INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 7 (INDEMNIFICATION), WILL EITHER PARTY'S MAXIMUM AGGREGATE LIABILITY FOR ALL CLAIMS ARISING IN CONNECTION WITH THIS AGREEMENT (IN TORT (INCLUDING NEGLIGENCE), CONTRACT OR OTHERWISE) EXCEED THE AMOUNT OF FEES PAID BY

CLIENT TO GRANICUS IN THE SIX (6) MONTHS IMMEDIATELY PRECEDING THE DATE THE DAMAGED PARTY NOTIFIES THE OTHER PARTY IN WRITING OF THE CLAIM.

**9. Term of Agreement.**

a) This Agreement and the SOW will be effective as of the effective date of the SOW and will remain in effect until the Services are completed, this Agreement is terminated, or the termination date set out in the SOW (the "Termination Date"), whichever is later. If no specific Termination Date is designated in the SOW, Client may terminate the SOW and this Agreement upon thirty (30) days written notice to Granicus.

b) Either party may terminate this Agreement and any SOW immediately upon written notice to the other party for cause, if: (i) such party is in breach of a material provision of this Agreement or the SOW and fails to cure such breach within thirty (30) days following written notice of such breach; or (ii) the other party ceases to conduct business in its ordinary course; is adjudged bankrupt or insolvent under applicable law; has made a general assignment for the benefit of creditors; files or becomes subject as a debtor to a petition in bankruptcy for liquidation or reorganization; becomes otherwise insolvent; or admits its inability to pay its debts generally as they become due.

c) Upon the effective date of termination of this Agreement or the SOW, Granicus will cease performance of the Services. Client will pay Granicus for all Services performed prior to the date of termination plus any additional fees that may be due under the SOW. For Services performed on a fixed-cost basis, should the SOW be terminated prior to delivery of any milestone or Deliverable, Client will pay Granicus at the hourly rate for all Services performed up to the date of termination as set forth in the SOW. If no hourly rate is designated, Client will pay Granicus' then standard hourly rate for such Services.

d) Sections 3 (Fees, Expenses), 5(b) (Warranty), 6 (Confidentiality), 7 (Indemnification), 8 (Limitation of Liability), 9 (Term of Agreement), 13 (General) and 14 (Applicable Law) will survive termination of this Agreement indefinitely or to the extent set out therein.

**10. Force Majeure.** Except for Client's payment obligations, neither party is responsible from any delay or failure to perform resulting from causes beyond its reasonable control.

**11. Independent Contractor.** Each party will act as an independent contractor and employees of each party will not be considered to be employees of the other party. No agency, partnership, joint venture or other joint relationship is created by this Agreement. Neither party may make any commitments binding on the other, nor may either party make any representation that they are acting for, or on behalf of, the other. Each party assumes full responsibility for the actions of its personnel while performing the Services and such party will be solely responsible for the

supervision, daily direction, control of its personnel, and for the payment of all of their compensation and any taxes related thereto.

**12. Publicity.** Neither party will use the name of the other party in publicity releases or similar activity without the consent of the other party, except Granicus may include Client's name in client list.

**13. General.**

a) No waiver of any breach of any provision of this Agreement or the SOW by either party or the failure of either party to insist on the exact performance of any provision of this Agreement or the SOW will constitute a waiver of any prior, concurrent or subsequent breach of performance of the same or any other provisions hereof, and no waiver will be effective unless made in writing.

b) Any notice alleging a breach of this Agreement must be in writing and be sent by overnight courier or delivered in person to the party's address set forth in this Agreement, the SOW or as provided to the other party in writing. Any other notice required to be provided by Granicus under this Agreement may be sent by postal mail service or e-mail to the individual designated by Client. Client's mailing and email address are as set forth in the SOW. The mailing and email address of Granicus is as follows:

Granicus
Contracts
408 St. Peter Street, Suite 600, Saint Paul, MN 55102
(651) 757-4154
contracts@granicus.com

c) If any provision of this Agreement or the SOW, or portion thereof, is held to be invalid, illegal or unenforceable by a court of competent jurisdiction, such provision will be severed and the remaining provisions of the Agreement or SOW will remain in full force and effect.

d) Client agrees not to export, re-export, or provide the Deliverables to: (i) any country to which the United States has embargoed goods; (ii) any person on the U.S. Treasury Department's list of Specially Designated Nationals; (iii) any person or entity on the U.S. Commerce Department's Denied Persons List; or (iv) any person or entity where such export, re-export or provision violates any U.S. Export control or regulation.

e) Neither Party may assign, delegate, or otherwise transfer this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party (such consent not to be unreasonably withheld); provided, however, that either Party may assign this Agreement with reasonable notice to the other party to an affiliate or to a successor in interest resulting from acquisition of all, or substantially all, of the assigning party's business by means of merger, stock or asset purchase, or otherwise. Any assignment or attempted assignment in violation of this Agreement will be null and void.

f) This Agreement may not be amended or modified except by a written instrument signed by authorized representatives of both Parties.

**14. Applicable Law.** If Client is a public entity (a state or any agency or authority thereof, or county, city or town, public educational institution or other entity that serves a public purpose), this Agreement will be governed by and construed in accordance with the laws of the state in which the public entity is located, with venue being a court of competent jurisdiction within such state. If Client is the Federal government of the United States or any branch or agency thereof, this Agreement will be governed by the laws of the United States with venue being any Federal district court of competent jurisdiction. If Client is located in Canada, this Agreement will be governed by the laws of the Province of Ontario with suit brought only in the General Division of the Ontario Court of Justice. No applicable principals of conflicts of laws or the United Nations Convention on contracts for the international sale of goods will apply to this Agreement.

**15. Entire Agreement.** This Agreement and the SOWs and purchasing documents governed by this Agreement constitutes the entire agreement between Granicus and Client, and supersedes all prior agreements, requests for proposals or pricing and the corresponding responses, understandings, representations or correspondence relevant to the subject matter hereof. Inconsistencies between documents will be resolved in the following order: (i) this Agreement; (ii) SOWs; (iii) all other purchase documents executed by the parties (except for any pre-printed or standard terms contained on purchase orders); (iv) Granicus' response to Client's RFI, RFP, RFQ; and (v) Client's RFI, RFP, RFQ. If Client issues a purchase order, Granicus hereby rejects any additional or conflicting terms appearing on the purchase order or any other ordering materials submitted by Client. Client has not been induced to enter into this Agreement or the SOW by any representations or promises not specifically stated herein. The SOW will be signed by authorized representatives of Granicus and Client or be incorporated and referenced into a legally binding document between the parties.

**govDelivery/Communications Cloud/Granicus Government Experience Cloud.**

- a. Contact information (including personal information) of subscribers to Client's communication network provided to Granicus by Client or gathered through Client's own web properties or activities are "Direct Subscriber" contacts and will remain the property of Client ("Direct Subscriber"). Granicus will not disclose Direct Subscriber data except as required by law, or to third parties solely as necessary to operate the Granicus Products.
- b. govDelivery, a Granicus Product, offers Direct Subscribers the opportunity to subscribe to digital communications offered by other Granicus clients (the "Advanced Network"). When a Direct Subscriber registers on the Advanced Network, that subscriber is a "Network Subscriber" to the agency it subscribed to through the Advanced Network.
- c. Network Subscribers are not Direct Subscribers and are only available for use while Client is under an active govDelivery subscription. Network Subscribers will not transfer to Client upon termination of Client's subscription, and Client must delete all information related to Network Subscribers within fifteen (15) days of expiration or termination of Client's access to the Advanced Network. Client is permitted to send an email inviting Network Subscribers to subscribe to updates directly from Client in the last ten (10) days of Client's subscription term. Network Subscribers that do not engage with Client directly will not be included in any subscriber list provided to Client upon conclusion of Client's subscription.

**Version May 2022**



# OpenCities: Acceptable Use Policy

This Acceptable Use Policy applies to anyone who uses our SaaS and is a condition of a Local Government's Contract with us. Failure to to adhere to this policy may result in suspension or termination of your account.

If you have accepted our SaaS Agreement on behalf of your organization, then this Acceptable Use Policy will apply to all users of the SaaS in or on behalf of your organization.

## Our SaaS must not be used to:

- abuse, menace, harass, intimidate or stalk anyone;
- break the law or allow another person to break the law;
- damage property including intellectual property;
- injure anyone;
- mislead or deceive anyone including the creation of 'spoof' websites;
- facilitate the commission of a tort, or breach of contract;
- allow for the misuse of anyone's confidential information;
- misuse or allow for the misuse of anyone's personal information, sensitive information or health information;
- facilitate or engage in any act or omission which is in contravention of the Spam Laws;
- deceive or manipulate (or allow anyone else to) our billing systems or any part of our network;
- interfere with someone else's computer without their permission;
- allow a minor to view or access material which is inappropriate (or not classified for minors) for minors including pornography;
- send or distribute any virus, worm, trojan or other malicious code;
- send alter or create an electronic message (including spoofing) to conceal the true identity of the person from whom it originates;
- control or contribute to a Denial of Service attack;
- publish content which is obscene or offensive;

- publish content which is defamatory or potentially defamatory;
- publish content which is likely to incite sexual, religious or racial hatred, violence, discrimination or vilification.

The prohibited uses listed above are in addition to and not instead of those contained in your OpenCities SaaS agreement.

# OpenCities: Accessibility Statement

## Our commitment to access for all

OpenCities is committed to helping government transform their digital customer experience. That means supporting government to make their digital content and services accessible and usable by everyone.

**This is our commitment to accessibility, a web that everyone can access.** When you use the OpenCities platform, you can rest assured that all functionality is thoroughly tested against the latest accessibility guidelines and standards (with both automated tools and specialist manual checks).

## The standards we follow

The Web Content Accessibility Guidelines (WCAG) are a set of criteria to help make web technologies and web content more accessible. Following these guidelines makes content accessible to a wider range of people with disabilities, including blindness and low vision, deafness and hearing loss, learning disabilities, cognitive limitations, limited movement, speech disabilities, photosensitivity, and combinations of these. Employing accessibility best practices also improves the user experience of all users.

**The OpenCities platform meets WCAG 2.1 Level AA.** A Statement of Accessibility can be found under *Voluntary Product Accessibility Template* below.

This provides the capability for our customer sites to meet WCAG 2.1 Level AA. We encourage all customers to reach that level, and actively do our best to support those efforts with our customers.

In publishing websites of our own (such as this one) we strive to meet WCAG 2.1 Level A.

## Voluntary Product Accessibility Template

For a breakdown of how the OpenCities platform complies with accessibility standards, please refer to our [Voluntary Product Accessibility Template \(VPAT\) document](#).

## Your feedback

We welcome all feedback and questions on the accessibility of our web sites, content, products, and implementations.

If you experience any barriers so accessing anything we publish or in using our products, please get in [contact with us](#). We can help you get the information you are looking for and will commit to doing all we can to address any underlying roadblocks on our end.



# OpenCities

## Accessibility Conformance Report

### WCAG Edition

(Based on VPAT® Version 2.4)

#### Name of Product:

The OpenCities platform comprising:

- OpenCities (Version 1)
- OpenCities Intranet (Version 1)
- OpenForms (Version 3).

#### Report Date:

7<sup>th</sup> September 2020

#### Product Description:

Built with and for governments, OpenCities provides the website and forms functionality modern governments need to transform their digital customer journey, without custom coding.

OpenCities enables Governments of every size deliver world-class digital experiences, by re-imagining how councils procure, deliver, and evolve their website & online services.

#### Contact Information:

##### North America

1314 22nd Avenue, #697  
San Francisco, CA 94122

hello@opencities.com  
+1 877-466-7756

##### Australia

Level 8, 50 Market Street,  
Melbourne VIC 3000 Australia

hello@opencities.com  
+61 3 9913 0020

## Notes:

The accessibility evaluation was carried out in collaboration and testing from industry leader and long-term accessibility partner, Vision Australia Digital Access.

### Components evaluated

The following components have been evaluated:

1. All public-facing web components powering Web sites, Intranets, and Forms, comprising
  - a. Page structure, navigation, and other theming components produced by the OpenCities theming engine
  - b. All modules available to publish on a home page
  - c. All content modules available to publish on general pages such as tabs, accordions, videos, and image galleries
  - d. Rich content templates powering dedicated content types such as events, calendars, development applications, venues, businesses, landing pages, job advertisements, departments, blogs, news, consultations, glossaries, lost animal, meetings, parks, staff profiles, works and projects, public notices, initiatives, services
  - e. User-contributed content including business directory interfaces and in page discussion forums
  - f. Emergency notifications
  - g. Interactive maps and all included spatial data
  - h. Site search and search results
  - i. Authentication screens
2. All forms and digital service components, comprising:
  - a. Baseline form elements such as Text, Number, Dropdown, Checkbox, Radio button, Date, Email, and Rank inputs
  - b. Advanced form elements such as File upload, Calculation, Signature, Location, Payment, Radio matrix, Check matrix, Fieldset inputs, and displays
  - c. Layout and content components such as Heading, Paragraph, Section, Content, List, Image, Video elements, and confirmation pages
  - d. Form navigation components such as save for later, back, next and submit buttons

### Further commitment to accessibility

OpenCities is committed to making digital services accessible for everybody. Our commitment does not stop at the code that our product produces out of the box.

OpenCities guide all of our custom implementations and theming activities to meet strict Web Content Accessibility Guidelines (WCAG) 2.1 AA compliance.

Should a user find difficulty in using our administration interfaces due to an accessibility issue, OpenCities will make all endeavors to isolate and help resolve the issue.

### **Testing environment**

Initial testing was carried out on October 2019 with full compliance of the same environment reached in September 2020.

## **Evaluation Methods Used:**

The OpenCities platform has been evaluated against the WCAG 2.1 specification on Windows 10 including but not limited to the latest versions of Chrome and Firefox, the browsers most commonly used with assistive technology.

Evaluation has been carried out above and beyond that which is possible using automated testing technologies. In line with Internationally recognized Website Accessibility Conformance Evaluation Methodology (WCAG-EM), testing has been carried out using the same assistive technologies and navigation mechanisms that those with accessibility needs use.

This manual and has been carried out across a wide sample set of all of the componentry and page layouts that the OpenCities platform is capable of producing. OpenCities has arrived at full compliance of the platform as indicated in the report below through this combination of automated pull page testing and manually sampled testing.

The auditing procedure included:

- Assessing the mark-up and visual design of pages
- Evaluating functionality provided for mouse users to establish the full range of functionality available
- Checking for issues using browser-based tools including the browser code inspection tools, in-house evaluation tools, the Vision Australia Web Accessibility Toolbar, and Colour Contrast Analyser
- Evaluating keyboard access and functionality
- Testing a sample of pages or design elements using JAWS 2018 with Chrome and/or NVDA with Firefox
- Testing a sample of pages or design elements using VoiceOver with Safari on iOS and/or TalkBack with Chrome on Android
- Evaluating potential design conflicts with ZoomText 2019 and IE11
- Analyzing and testing appropriate solutions for the identified issues

## **Applicable Standards/Guidelines**

This report covers the degree of conformance for the following accessibility standard/guidelines:

Standard/Guideline	Included In Report
<a href="#">Web Content Accessibility Guidelines 2.1</a>	Level A (Yes) Level AA (Yes) Level AAA (No)

## Terms

The terms used in the Conformance Level information are defined as follows:

- **Supports:** The functionality of the product has at least one method that meets the criterion without known defects or meets with equivalent facilitation.
- **Partially Supports:** Some functionality of the product does not meet the criterion.
- **Does Not Support:** The majority of product functionality does not meet the criterion.
- **Not Applicable:** The criterion is not relevant to the product.
- **Not Evaluated:** The product has not been evaluated against the criterion. This can be used only in WCAG 2.0 Level AAA.

## WCAG 2.1 Report

### Table 1: Success Criteria, Level A

Notes: Issue numbers refer to accessibility audit of

Criteria	Conformance Level	Remarks and Explanations
<a href="#">1.1.1 Non-text Content</a> (Level A)	Supports	No issues identified
<a href="#">1.2.1 Audio-only and Video-only (Prerecorded)</a> (Level A)	Supports	No issues identified
<a href="#">1.2.2 Captions (Prerecorded)</a> (Level A)	Supports	No issues identified
<a href="#">1.2.3 Audio Description or Media Alternative (Prerecorded)</a> (Level A)	Supports	No issues identified
<a href="#">1.3.1 Info and Relationships</a> (Level A)	Supports	No issues identified
<a href="#">1.3.2 Meaningful Sequence</a> (Level A)	Supports	No issues identified
<a href="#">1.3.3 Sensory Characteristics</a> (Level A)	Supports	No issues identified
<a href="#">1.4.1 Use of Color</a> (Level A)	Supports	No issues identified
<a href="#">1.4.2 Audio Control</a> (Level A)	Supports	No issues identified
<a href="#">2.1.1 Keyboard</a> (Level A)	Supports	No issues identified
<a href="#">2.1.2 No Keyboard Trap</a> (Level A)	Supports	No issues identified
<a href="#">2.1.4 Character Key Shortcuts</a> (Level A 2.1 only)	Supports	No issues identified
<a href="#">2.2.1 Timing Adjustable</a> (Level A)	Supports	No issues identified
<a href="#">2.2.2 Pause, Stop, Hide</a> (Level A)	Supports	No issues identified
<a href="#">2.3.1 Three Flashes or Below Threshold</a> (Level A)	Supports	No issues identified



<a href="#">2.4.1 Bypass Blocks</a> (Level A)	Supports	No issues identified
<a href="#">2.4.2 Page Titled</a> (Level A)	Supports	No issues identified
<a href="#">2.4.3 Focus Order</a> (Level A)	Supports	No issues identified
<a href="#">2.4.4 Link Purpose (In Context)</a> (Level A)	Supports	No issues identified
<a href="#">2.5.1 Pointer Gestures</a> (Level A 2.1 only)	Supports	No issues identified
<a href="#">2.5.2 Pointer Cancellation</a> (Level A 2.1 only)	Supports	No issues identified
<a href="#">2.5.3 Label in Name</a> (Level A 2.1 only)	Supports	No issues identified
<a href="#">2.5.4 Motion Actuation</a> (Level A 2.1 only)	Supports	No issues identified
<a href="#">3.1.1 Language of Page</a> (Level A)	Supports	No issues identified
<a href="#">3.2.1 On Focus</a> (Level A)	Supports	No issues identified
<a href="#">3.2.2 On Input</a> (Level A)	Supports	No issues identified
<a href="#">3.3.1 Error Identification</a> (Level A)	Supports	No issues identified
<a href="#">3.3.2 Labels or Instructions</a> (Level A)	Supports	No issues identified
<a href="#">4.1.1 Parsing</a> (Level A)	Supports	No issues identified
<a href="#">4.1.2 Name, Role, Value</a> (Level A)	Supports	No issues identified

**Table 2: Success Criteria, Level AA**

<b>Criteria</b>	<b>Conformance Level</b>	<b>Remarks and Explanations</b>
<a href="#">1.2.4 Captions (Live)</a> (Level AA)	Supports	No issues identified
<a href="#">1.2.5 Audio Description (Prerecorded)</a> (Level AA)	Supports	No issues identified
<a href="#">1.3.4 Orientation</a> (Level AA 2.1 only)	Supports	No issues identified
<a href="#">1.3.5 Identify Input Purpose</a> (Level AA 2.1 only)	Supports	No issues identified
<a href="#">1.4.3 Contrast (Minimum)</a> (Level AA)	Supports	No issues identified
<a href="#">1.4.4 Resize text</a> (Level AA)	Supports	No issues identified
<a href="#">1.4.5 Images of Text</a> (Level AA)	Supports	No issues identified
<a href="#">1.4.10 Reflow</a> (Level AA 2.1 only)	Supports	No issues identified
<a href="#">1.4.11 Non-text Contrast</a> (Level AA 2.1 only)	Supports	No issues identified
<a href="#">1.4.12 Text Spacing</a> (Level AA 2.1 only)	Supports	No issues identified
<a href="#">1.4.13 Content on Hover or Focus</a> (Level AA 2.1 only)	Supports	No issues identified
<a href="#">2.4.5 Multiple Ways</a> (Level AA)	Supports	No issues identified
<a href="#">2.4.6 Headings and Labels</a> (Level AA)	Supports	No issues identified
<a href="#">2.4.7 Focus Visible</a> (Level AA)	Supports	No issues identified
<a href="#">3.1.2 Language of Parts</a> (Level AA)	Supports	No issues identified
<a href="#">3.2.3 Consistent Navigation</a> (Level AA)	Supports	No issues identified
<a href="#">3.2.4 Consistent Identification</a> (Level AA)	Supports	No issues identified
<a href="#">3.3.3 Error Suggestion</a> (Level AA)	Supports	No issues identified
<a href="#">3.3.4 Error Prevention (Legal, Financial, Data)</a> (Level AA)	Supports	No issues identified
<a href="#">4.1.3 Status Messages</a> (Level AA 2.1 only)	Supports	No issues identified

## **Disclaimer**

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# OpenForms: Acceptable Use Policy

## What this policy covers

This policy covers actions which may adversely affect our Services in any way. If you do something that isn't listed in this policy, but is similar to something listed we may still take action to address it. Failure to comply with this policy may result in termination of Services to you. Basically, we need you not to misuse or abuse our products and services. "Services" refers to our websites, products and any services we may supply to you. "Content" refers to any information, data, text, software, code, scripts, music, sound, photos, graphics, videos, messages, tags, interactive features, or other materials that you post, upload, share, submit, or otherwise provide in any manner to the services and any other materials, content, or data you provide to OpenForms or use with the Services.

## Things which must not be done

### Service disruption

- Compromising the integrity of our systems in any way including probing, scanning, or testing the vulnerability of any system or network that hosts our services
- Tampering with, reverse-engineering, or hacking our services, circumventing any security or authentication measures, or attempting to gain unauthorized access to the services, related systems, networks, or data
- Modifying, disabling, or compromising the integrity or performance of the services or related systems, network or data
- Deciphering any transmissions to or from the servers running the services
- Overwhelming or attempting to overwhelm our infrastructure by imposing an unreasonably large load on our systems that consume extraordinary resources (CPUs, memory, disk space, bandwidth, etc.), such as:
- Using "robots", "spiders", "offline readers", or other automated systems to send more request messages to our servers than a human could reasonably send in the same period of time by using a normal browser

- Consuming an unreasonable amount of storage for music, videos, pornography, etc., in a way that's unrelated to the purposes for which the services were designed

### **Wrongful activities**

- Misrepresentation of yourself, or disguising the origin of any content (including by "spoofing", "phishing", manipulating headers or other identifiers, impersonating anyone else, or falsely implying any sponsorship or association with OpenForms or any third party)
- Using the services to violate the privacy of others, including publishing or posting other people's private and confidential information without their express permission, or collecting or gathering other people's personal information (including account names or information) from our services
- Using our services to stalk, harass, or post direct, specific threats of violence against others
- Using the Services for any illegal purpose, or in violation of any laws (including without limitation data, privacy, and export control laws)
- Accessing or searching any part of the services by any means other than our publicly supported interfaces (for example, "scraping")
- Using meta tags or any other "hidden text" including OpenForms or our suppliers product names or trademarks

### **Inappropriate communications**

- Using the services to generate or send unsolicited communications, advertising, chain letters, or spam
- Soliciting our users for commercial purposes, unless expressly permitted by OpenForms
- Disparaging OpenForms or our partners, vendors, or affiliates
- Promoting or advertising products or services other than your own without appropriate authorization

### **Uploading or submitting inappropriate content**

- You will not in any way provide content that:

- Infringes OpenForms or a third party's intellectual property or other rights, including any copyright, trademark, patent, trade secret, moral rights, privacy rights of publicity, or any other intellectual property right or proprietary or contractual right
- You don't have the right to submit
- Is deceptive, fraudulent, illegal, obscene, defamatory, libelous, threatening, harmful to minors, pornographic (including child pornography, which we will remove and report to law enforcement, including the National Center for Missing and Exploited Children), indecent, harassing, hateful
- Encourages illegal or tortious conduct or that is otherwise inappropriate
- Attacks others based on their race, ethnicity, national origin, religion, sex, gender, sexual orientation, disability, or medical condition
- Contains viruses, bots, worms, scripting exploits, or other similar materials
- Is intended to be inflammatory
- Could otherwise cause damage to OpenForms or any third party

Without affecting any other remedies available to us, OpenForms may permanently or temporarily terminate or suspend a subscription or users account without notice or liability if OpenForms (in its sole discretion) determines that a user has violated this Acceptable Use Policy.

# OpenForms: Terms of Use

Thanks for using OpenForms to replace PDFs and other old form technologies with our beautiful, responsive, accessibility compliant web based forms for websites and intranets.

Your use of OpenForms is subject to the terms and conditions contained in this document as well as the Granicus Privacy Policy and OpenForms Acceptable Use Policy (collectively, the "Terms"). These Terms may be updated from time to time and are available at <https://www.granicus.com/Legal/licensing>. By creating an account in OpenForms you accept the Terms. These Terms come into effect immediately after the successful creation of your subscription.

If you are an individual and you are accepting these Terms on behalf of an organisation, you represent that you are authorized to do so on behalf of that organisation. In such case, "you" and "your" will refer to that organisation, otherwise it refers to you as an individual and you enter into the Terms yourself.

## 1. Pricing and Payments

1.1. OpenForms Pricing. Granicus may from time to time adjust the prices and introduce additional modules. If your subscription is an enterprise agreement, your pricing will be included as an appendix to this agreement. If your subscription is affected by a change in pricing, you will be notified at least three (3) months prior to the change taking effect.

1.2. Invoices and Payment Terms. Granicus will make available detailed invoices to you in respect of any applicable fees on a monthly or annual basis depending on your chosen plan. You agree to pay the amount specified in each invoice upon receipt. Accounts thirty (30) days past due are subject to suspension or cancellation. Fees paid by you are non-refundable, except as provided in these Terms or when required by law.

1.3. Payment Method. Granicus accepts payments (each, a Payment Method) via a valid credit card such as Visa, MasterCard or American Express for all subscriptions. Enterprise subscriptions may be paid via direct bank deposit or wire transfer as per instructions on Enterprise invoices. The Payment Method you first specify when you set up your subscription will be set as the Payment Method for your subscription. You may change the Payment Method using the management tools available within OpenForms. If the Payment Method is credit or debit card, you agree that the submission of credit or debit card information to OpenForms will constitute your

authorisation for Granicus to charge all applicable fees and charges to the specified credit or debit card.

1.4. Taxes. You will pay any sales, value-added or other similar taxes imposed by applicable law that Granicus must pay associated with the sale of OpenForms, except for taxes based on Granicus income.

## 2. Privacy

2.1. Privacy. The parties will, in performing their respective obligations under these Terms, comply with Australia's Privacy Act 1988 (Cth) (the Act), and neither party will put the other in breach of the Act. In the course of using OpenForms, you may submit content to OpenForms (including your personal information and the personal information of others) or third parties may submit content to you through OpenForms (your Content). Where you submit personal information of third parties to OpenForms, you must: (a) ensure that you are entitled to transfer the relevant personal information to Granicus so that Granicus may lawfully use, process and transfer the personal information in accordance with Granicus Privacy Policy; and (b) ensure that the relevant third party has been informed of, and has given their consent to, such use, processing and transfer of the personal information as required by all applicable privacy laws.

2.2. Privacy Policy. Granicus Privacy Policy details the manner in which we treat your Content and personal information and describes the key features of how we protect your personal information. We agree to adhere to the Privacy Policy located at <https://www.granicus.com.au/Privacy-Policy>. You agree that Granicus may use and share your Content in accordance with our Privacy Policy.

2.3. Confidentiality. Granicus will treat your Content as confidential information and only use and disclose it in accordance with these Terms (including our Privacy Policy). Your Content is not considered to be confidential information if such Content: (a) is publicly available through no fault of Granicus; or (b) was rightfully received by Granicus from a third party without restriction and without breach of an obligation of confidentiality. Granicus may disclose your Content when required by law.

2.4. Security. Granicus aims to comply with established industry practice in relation to your Content security. We utilise Microsoft Azure cloud services which have been independently tested to comply with numerous governmental certifications globally, including IRAP in Australia and COS 1, 2 & 3 in the USA. OpenForms is also independently undergoing IRAP, ISO27001 and PCI DSS compliance certification processes.

## 3. Your Content

3.1. You Retain Ownership of Your Content. You retain all right, title and interest (including any intellectual property rights) in and to your Content. Granicus does not claim ownership over any of your Content.

3.2. Limited License to Your Content. You grant Granicus a limited, non-exclusive, royaltyfree, non-transferable license to host, reproduce, transmit, cache, store, exhibit, publish, display, distribute, perform, and otherwise use your Content solely as necessary to provide OpenForms to you and as otherwise permitted by Granicus Privacy Policy. You represent and warrant that you have the rights necessary to grant Granicus such a licence.

3.3. Responsibility for your Content. You are solely responsible for your Content which includes content submitted to you through OpenForms by third parties. You must ensure that you have obtained all necessary rights, releases and consents to allow your Content to be collected, used and disclosed in the manner contemplated by these Terms and to grant Granicus the rights herein. You will be solely responsible for the accuracy and appropriateness of your Content within OpenForms.

3.4. Content Review. You acknowledge that, Granicus may, but has no obligation to, monitor, and review or edit your Content. In all cases, Granicus reserves the right to remove or disable access to any of your Content that, in Granicus sole discretion, violates the law or these Terms. Granicus may take these actions without prior notification to you.

3.5. Content Disclosure. Granicus reserves the right to disclose any of your Content that Granicus deems necessary to comply with any applicable law, legal process or government request including, without limitation, account information (ie name, e-mail address etc), and your Content residing on OpenForms. Prior to disclosure, Granicus will inform you of the information to be disclosed.

3.6. Third Party Resources and Links to other websites. Links to other websites maintained by third parties may be provided in OpenForms for the convenience of users. The inclusion of a link does not imply endorsement of the content of the external site by Granicus. Granicus is not responsible for and accepts no liability for the content or services provided by any third party websites, or whether the information contained on those websites is suitable for your needs.

3.7. URL – OpenForms URL or your own URL. OpenForms allows you to integrate forms into your own website by embedding the form via an iFrame or via hyperlink. Where you embed forms on your own website, you are not permitted to move, alter, remove, or hide the notice "Powered by Granicus" or the link to our Privacy Policy that may appear below the form.



## 4. OpenForms IP

4.1. OpenForms IP. You acknowledge that Granicus is the sole and exclusive owner of all intellectual property rights in OpenForms, and you undertake that you will attempt to decompile, disassemble, reverse engineer, modify, enhance, change or alter the whole or any part of OpenForms. Neither these Terms nor your use of OpenForms grants you ownership in OpenForms or the content you access through OpenForms (other than your Content). These Terms do not grant you any right to use Granicus trademarks, business names or logos.

## 5. Account Management

5.1. Keep Your Password Secure. You must be aged 18 or over to be eligible to register with OpenForms. You are liable for all activity on your account, including purchases made using your account details. You agree you will not disclose your password to any third party and that you will take sole responsibility for any activities or actions undertaken using your account, whether or not you have authorised such activities or actions. You will immediately notify Granicus of any unauthorised use of your account.

5.2. Keep Your Details Accurate. You warrant that all registration information you provide when opening the account is complete, true and accurate in all respects and that you will maintain and promptly update such information and material to keep it true, accurate, current and complete. Where applicable, you must keep your contact details and payment details associated with your account current and accurate.

5.3. Remember to Backup. You acknowledge that you are responsible for maintaining, protecting, and making backups of your own Content. While OpenForms regularly backs up all data to geographically remote data centres for disaster recovery purposes and follows industry best practices in managing the data and access to it, to the extent permitted by applicable law, Granicus will not be liable for any failure to store, or for loss or corruption of your Content.

## 6. Maintenance

6.1. Maintenance. Granicus may perform scheduled maintenance of our software and infrastructure from time to time. Granicus will attempt to carry out scheduled maintenance at times which will least affect you and in a manner which will minimise service interruption. Scheduled maintenance may mean that access to forms on your website and or the OpenForms management interface will be temporarily unavailable, however most maintenance and deployment activities will not cause any down time.

## 7. Your Obligations and Things You Must Not Do

7.1. Third party services. You acknowledge that Granicus will not have any responsibility or liability with regard to any third party services used by you on or through OpenForms

and any use of such third party services will be at your own risk. While Granicus will use reasonable endeavours to maintain compatibility between third party services and OpenForms, Granicus is not responsible for any incompatibility between third party services and OpenForms.

7.2. Unauthorised access to OpenForms. To the extent permitted by applicable law, You indemnify and keep Granicus indemnified against any loss or damage (except where and to the extent that such loss or damage is consequential in nature) which Granicus suffers as a result of any unauthorised access to OpenForms or OpenForms network or those of OpenForms suppliers, to the extent such unauthorised use arises from a breach of these Terms.

7.3. Acceptable Use Policy. You will use OpenForms in compliance with our then current Acceptable Use Policy located at <https://www.granicus.com/Legal/licensing>. Any breach of this Acceptable Use Policy by you will entitle Granicus to suspend or cancel your account without prior notice to you.

## 8. Suspension and Cancellation of OpenForms

8.1. Suspension or Cancellation. You agree that Granicus may cancel your OpenForms account or suspend access to your account at any time. Granicus will notify you of such cancellation or suspension of your account by email to the email address you provide when you register with OpenForms. You may discontinue your use of OpenForms or cancel your OpenForms account at any time.

8.2. Effects of Cancellation and Suspension. Upon cancellation of your account: (a) all access to OpenForms will cease immediately as your account will be disabled; (b) you will be invoiced for any outstanding fees which must be paid within 30 days from the date of cancellation. Where your Payment Method is credit or debit card we may automatically attempt to collect any outstanding fees from your specified credit or debit card; and (c) you will be able to access your Content on OpenForms for 30 days following cancellation to allow you to export your Content. All of your Content in OpenForms will no longer be available 31 days following cancellation of your account as OpenForms will purge all of your Content from OpenForms and all of your Content will be destroyed, unless otherwise agreed by the parties in writing.

## 9. Warranty

9.1. Warranty. You represent, warrant and covenant to Granicus that: (a) your Content or its use will not violate, misappropriate or infringe any intellectual property rights or any other persona, privacy or moral right arising under the laws of any jurisdiction of any person or entity, nor will same constitute a libel or defamation or any person or entity; (b) your Content will not contain any harmful components, including, but not limited to, viruses, hidden sequences, hot keys or time bombs; and (c) you will comply with all

applicable laws, rules and regulations (including, but not limited to, export control, decency, privacy and intellectual property laws in your use of OpenForms).

9.2. Disclaimer of Warranties. Where you use OpenForms you understand and expressly agree that use of OpenForms is at your sole risk. OpenForms is provided on an “as is” and “as available” basis. Granicus expressly disclaims all warranties of any kind, whether express or implied, with respect to OpenForms (including, but not limited to, the implied warranties of merchantability, fitness for a particular use or purpose, and non-infringement). Granicus makes no warranty that OpenForms will meet your requirements, or that OpenForms will be uninterrupted, timely, secure, or error free. You understand and agree that any material and/or information downloaded or otherwise obtained through the use of OpenForms is done at your own discretion and risk and that you will be solely responsible for any damage arising therefrom. No advice or information, whether oral or written, obtained by you from OpenForms or through OpenForms will create any warranty not expressly made herein.

## 10. Indemnification

10.1. Granicus will defend, indemnify and hold Client harmless from and against all losses, liabilities, damages and expenses including reasonable attorney fees (collectively, “Losses”) arising from any claim or suit by an unaffiliated third party that OpenForms, as delivered to You and when used in accordance with the Terms, infringes a valid copyright or patent issued in the jurisdiction in which you are licensed to use OpenForms (a “Claim”).

b) To the extent permitted by applicable law, Granicus will have control of the defense and reserves the right to settle any Claim. You must notify Granicus promptly of any Claim and provide reasonable cooperation to Granicus, upon Granicus' request and at Granicus' cost, to defend such Claim. Granicus will not agree to any settlement which requires acknowledgment of fault or an incurred liability on the part of an indemnified party not otherwise covered by this indemnification without indemnified party's prior consent. You may elect to participate in the defense of any Claim with counsel of your choosing at your own expense.

c) If OpenForms are subject to a claim of infringement or misappropriation, or if Granicus reasonably believes OpenForms may be subject to such a Claim, Granicus reserves the right, in its sole discretion, to: (i) replace OpenForms with non-infringing functional equivalents; (ii) modify OpenForms to render it non-infringing; or (iii) terminate your license to OpenForms and refund any prepaid fees for the then-remaining portion of the Term.

d) Granicus will have no obligation to indemnify, defend, or hold You harmless from any Claim to the extent it is based upon: (i) a modification to OpenForms by anyone other

than Granicus; (ii) combination of OpenForms with non-Granicus software or data; or (iii) Your use of OpenForms other than in accordance with the Terms.

e) This section sets forth Your sole and exclusive remedy, and Granicus' entire liability, for any Claim that OpenForms violates or infringes upon the rights of any third party.

## 11. Limitation of Liability

11.1. Exclusion of liability. Subject to clause 11.3 and to the full extent permitted by law, Granicus or its affiliates, will not be liable to you, or your affiliates, (whether in common law, equity, contract, tort (including negligence), breach of statutory obligation or duty, for repudiation, anticipatory breach or otherwise) for: (a) any special, exemplary or punitive damages; or (b) any consequential loss, regardless whether such party has been made aware of the likelihood of such losses.

11.2. Limit of liability. Subject to clause 11.3, to the extent permitted by law, Granicus, or its affiliates, cumulative liability to you (or your affiliates), for all claims arising under or in relation to these Terms, whether in common law, equity, contract, tort (including negligence), breach of statutory obligation or duty, repudiation, anticipatory breach or otherwise), will not exceed when aggregated, the actual fees received by Granicus under these Terms for the portion of the services provided to you, giving rise to such claim during the preceding twelve (12) month period.

11.3. Acknowledgment of Granicus' liability. Notwithstanding that clauses 11.1 and 11.2 are expressed in the Agreement to apply to exclude and limit liability, nothing in this clause 11 operates to exclude or restrict Granicus' liability under the indemnity contained in clause 10.1.

11.4. Exclusion of implied terms and limitation. Nothing in this Agreement will operate so as to exclude, restrict or modify the application of any of the provisions of the Competition and Consumer Act 2010 (Cth) or any equivalent State or Territory legislation (Relevant Legislation), the exercise of a right conferred by such a provision, or any liability of a party for a breach of a condition or warranty implied by such a provision, where the Relevant Legislation would render it void to do so. To the extent that it is able to do so, Granicus expressly limits its liability for breach of any condition or warranty implied by virtue of any Relevant Legislation to at Granicus' option, resupply of the services or refund the cost of this service.

## 12. Changes and Updates

Changes to OpenForms. Granicus reserves the right to add, alter, or remove functionality from OpenForms at any time without prior notice to you. OpenForms may also limit, suspend or discontinue OpenForms at its discretion. If Granicus discontinues

OpenForms, we will give you at least 180 days advance notice to provide you with an opportunity to export a copy of your Content from OpenForms.

## 13. General Terms

13.1. Force Majeure. Granicus is not responsible or liable to you or any other person, firm or entity for any failure to perform any obligation under these Terms to the extent that it is caused by any act, event, omission or non-event beyond Granicus' reasonable control, which will be deemed to include riots, war, acts of terrorism, fire, flood, storm or earthquake.

13.2. Entire Agreement. These Terms are the entire agreement and understanding with regard to OpenForms and supersede any prior agreement or understanding on anything connected with OpenForms. You have entered into these Terms without relying on any representation by us or any person purporting to represent us.

13.3. Representations. You acknowledge that you have relied on your own independent assessment and judgment in determining whether OpenForms meets your (or your customers) requirements.

13.4. Assignment. You may not assign any of your rights or obligations under this agreement without the prior written consent of OpenForms, which must not be unreasonably withheld.

13.5. Waiver and invalidity. A party's failure or delay to exercise a power or right does not operate as a waiver of that power or right. The exercise of a power or right does not preclude either its exercise in the future or the exercise of any other power or right. A waiver is not effective unless it is in writing. Waiver of a power or right is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.

13.6. Severability. If any provision of these Terms is held to be invalid or unenforceable, such provision will be severed without affecting the enforceability and validity of the remaining provisions which will remain in full force and effect.

13.7. Relationship of the parties. You agree that Granicus is not your employee, agent, partner, joint venturer or subcontractor in relation to your use of OpenForms.

13.8. Governing Law. This agreement is governed by the law in force in Victoria, Australia. The parties submit to the non-exclusive jurisdiction of the courts of the State of Victoria, Australia and courts which may hear appeals from those courts in respect of any proceedings in connection with these Terms.

## 14. Contracting entity

14.1. Contracting Entity. References to "OpenForms", "Granicus" "we", "us" are references to Granicus Australia Pty Ltd, ABN: 60 648 475 101.