**ELECTRONIC RECORDING MEMORANDUM OF UNDERSTANDING**

**Real Estate eFilings**

**THIS MEMORANDUM OF UNDERSTANDING** is between the Oklahoma County, on behalf of David B. Hooten, Oklahoma County Clerk **("CLERK"),** Granicus, Inc. **(dba "GRANICUS"),** and  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(“COMPANY”)** with offices at ­­\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

The Oklahoma County Clerk desires to offer the recording of real property documents by electronic means providing for the receiving and transmitting of documents electronically in substitution for conventional paper based documents to the mutual benefit of the parties of the transactions.

This Memorandum of Understanding will be for the initial period from when this document is executed through June 30, 2020. Thereafter, this Agreement will extend automatically for consecutive fiscal one year terms unless terminated by any party by written notice to the other parties given at least 30 days prior to expiration.

For purposes of this Memorandum of Understanding, Electronic Recording is defined to be the electronically based submitting of documents from **COMPANY** to **CLERK** and receipt of confirmation of recording, whether electronically or by other means, from **CLERK** to **COMPANY** based on the level of automation and structure of the transaction and is characterized in the industry by three different levels of automation and structure as follows:

Level 1 - Submitting organizations transmit scanned images **original** ink signed documents to the **CLERK.** The **CLERK** completes the recording process in the same way as paper using the imaged copy as the source document. Once the **CLERK** accepts the documents for recording, the scanned image is “burned” with the recording information, including recording date and time as well as the unique recording reference number, such as instrument number. Indexing is performed by the indexing staff of the **CLERK’S** office, as with paper documents. A copy of the recorded images is returned to the submitter, together with the recording endorsement data.

Level 2 - Submitting organizations transmit scanned images of **original** ink signed documents or an electronic document electronically signed and notarized, along with data necessary for processing, indexing, and returning the document to the **CLERK.** The **CLERK** performs an electronic examination of the imaged documents and indexing data, and then completes the recording process using the imaged copy and electronic indexing information. If accepted for recording by **CLERK,** the electronic version of the recorded document is returned electronically or by other means to the submitter, together with the recording endorsement data.

Level 3 - Submitting organizations transmit documents which have been created electronically containing the electronic indexing information in compliance with the Oklahoma Real Property Electronic Recording Act (URPERA). Electronic signatures

must comply with the Oklahoma Uniform Electronic Transaction Act (UETA). The **CLERK** performs an electronic examination of the electronic documents and indexing information then completes the recording process using the electronic documents. The recorded document and a signification of the recorded status of the document or documents are returned to the submitting organization electronically or by other means, along with recording endorsement data.

As noted in Attachment A, Levels 1 and 2 are available for Real Estate efiling with the COUNTY under this Memorandum of Understanding. Level 3 efiling is possible with the COUNTY but may be limited. Any agreement for Level 3 efilings will be included in a separate attachment to this Memorandum of Understanding.

**Program Eligibility**

Electronic Recording requires a close working relationship as well as mutual trust between the **CLERK, COMPANY,** and **GRANICUS.** All parties of the Electronic Recording transaction desire to operate and maintain a secure recording system that safeguards parties to recordation from deceit, fraud and forgery. This Memorandum of Understanding outlines the procedures and rules for the trusted relationship between the parties involved in Electronic Recording in order to facilitate a safe and secure Electronic Recording relationship. ·

Participation in the Electronic Recording program is voluntary and the decision to do so is a business judgment.

**CLERK Requirements**

The Electronic Recording Program of **CLERK** is defined by the requirements attached to this Memorandum of Understanding.

*Attachment A* defines the technical specifications including format, levels of recording supported, transmission protocols, and security requirements of the electronic records required by the **CLERK.** The **COMPANY** agrees to provide the transmission to the **CLERK** following the specifications outlined. The **COMPANY** understands that the specifications may change from time to time. In the event changes to the specification are required, the **CLERK** will provide a written notice to the **COMPANY** within a reasonable timeframe in advance of the change.

*Attachment B* contains the document and indexing specifications for the Electronic Recording program. For each document, the **CLERK** specific document code is provided along with the required indexing information. Any **CLERK** specific editing rules will also be described in this attachment.

*Attachment* C contains the processing schedules and hours of operation for the Electronic Recording program. No party shall be liable for any failure to perform processing of the transactions and documents where such failure results from any act of Nature or other cause beyond the party's reasonable control (including, without limitation, any mechanical, electronic or communications failure which prevents the parties from transmitting or receiving the electronic recording transactions).

*Attachment D* provides the payment options supported for the Electronic Recording program.

**CLERK Responsibilities**

**CLERK** shall attempt to protect the integrity of the Recordation process through ongoing monitoring of documents received and recorded through the Electronic Recording means.

**CLERK** shall work with **GRANICUS** and the **COMPANY** to install, configure, and administer necessary infrastructure components to facilitate Electronic Recording.

**CLERK** shall test and maintain Electronic Recording software and hardware required to operate the Electronic Recording capability. The **CLERK** however, shall be held harmless and not liable for any damages resulting from software or equipment failure.

**CLERK** shall institute security to authenticate verbal communications.

**CLERK** shall apply the same level of diligence in handling documents submitted electronically as those submitted through the normal manual process.

**GRANICUS Responsibilities**

**GRANICUS** is responsible for providing, supporting, and maintaining Electronic Recording Software and internal Recording Software to **CLERK pursuant to a separate licensing or other agreement between GRANICUS and CLERK.**

**GRANICUS** shall work with the **COMPANY** and **CLERK** to resolve issues encountered in the Electronic Recording process that are within scope of **GRANICUS'** software.

**GRANICUS,** through the Electronic Recording software, shall maintain a baseline audit trail of documents received, IDs received, dates and times received, receipts to the **COMPANY** received, receipts transmitted, and any errors encountered.

**COMPANY Responsibilities**

**COMPANY** shall work to ensure that all security measures and credentials implemented are protected. The **COMPANY** assumes all responsibility for documents submitted through unique credentials provided to the **COMPANY** for the purposes of engaging in Electronic Recording.

**COMPANY** shall be diligent in ensuring that documents submitted for Electronic Recording have been checked before submission, original documentsR for errors, omissions, scanning defects, lapsed filings, illegible areas, incorrect DPI, page count discrepancies and other deformities that would impact the validity of the document. The **COMPANY** will, at a minimum; have validation embedded in their software to prevent inconstant page counts and incorrect DPIs from being transmitted to the **CLERK.**

**COMPANY** acknowledges that Electronic Recording permits them to prepare, sign and/or transmit in electronic format documents and business records and the document or records shall be considered as the "original" record of the transaction in substitution for, and with the same intended effect as, paper documents and, in the case that such documents bear a digital or electronic signature, paper documents bearing handwritten signatures.

By use of electronic or digital certificates to sign documents, the **COMPANY** intends to be bound to those documents for all purposes as fully as if paper versions of the documents had been manually signed.

By use of electronic or digital certificates to sign documents, the **COMPANY** intends to be bound by those electronic signatures affixed to any documents and such electronic signature shall have the same legal effect as if that signature was manually affixed to a paper version of the document.

By use of digital certificates to seal electronic files containing images of original paper documents or documents bearing manual signatures, the **COMPANY** shall recognize such sealed images for all purposes as fully as the original paper documents and shall be responsible for any failure by Users to comply with quality control procedures for assuring the accuracy and completeness of the electronic files.

The **COMPANY** and or its' employees attest to the accuracy and completeness of the electronic records and acknowledge responsibility for the content of the documents submitted through the Electronic Recording Program. Should a dispute or legal action arise concerning an electronic transaction, the CLERK and GRANICUS will be held harmless and not liable for any damages.

The **COMPANY** is responsible for receiving receipt of documents recorded by **CLERK** insuring that the source of the receipt is known to be the **CLERK.** The **COMPANY** is responsible for forwarding these documents to **CLERK.** The **COMPANY** must maintain an audit trail of all activity, available to **CLERK or GRANICUS,** at their request, to resolve issues or to investigate potential fraudulent activity. The audit trail must contain, at a minimum, submitter ID, submitted content at point of receipt from the **COMPANY,** submitted content as at point of delivery to **CLERK,** dates and times submitted.

**COMPANY** will immediately notify the **CLERK** of any security incident, including but not limited to attempts to or actual unauthorized access to its pathway, which could compromise or otherwise adversely affect the County **Clerk’s** data systems.

**COMPANY** is responsible for assisting with resolution of any technical issues associated with Electronic Recording. The **COMPANY** shall work, in good faith, with **GRANICUS** and **CLERK** to resolve issues with the Electronic Recording Process.

**COMPANY** shall provide end user support to both **GRANICUS** and **CLERK** through which problems or issues can be reported and addressed. In the event that a problem is determined to be with the Electronic Recording software and not the infrastructure provided, the **COMPANY** shall work to resolve issues with **CLERK** and **GRANICUS.**

If applicable, **COMPANY** is solely responsible for any and all costs of the system, hardware or services that enable the **COMPANY** to meet the Electronic Recording Program requirements provided by **GRANICUS.**

The **COMPANY** is responsible for coordinating all technical problems and issues through

**CLERK.**

**General Understandings**

Documents may be rejected in accordance with Oklahoma law, including, but not limited to the following reasons: document errors, failure to pay the filing or other fees due, the document is not a type the County **Clerk** is authorized to accept for recording, or the document fails to meet any other applicable legal requirement.

The **CLERK, GRANICUS** and **COMPANY** acknowledges that the electronic recording process is an emerging technology and that State and National standards will continue to evolve.

Any amendments or modifications to these terms require written agreement among all parties.

**CLERK** will not incur any liability for the information electronically transmitted by the

**COMPANY to CLERK.**

**CLERK** will not incur any liability for any breach of security, fraud, or deceit caused by Company, Granicus or other third parties as a result of Electronic Recording

The **CLERK** may cease eRecording at any time with no notice in an emergency situation involving injury and damage to the County’s eRecording system when the time requirement for notice would increase the likelihood of injury or damage**.**

Neither CLERK, nor COMPANY, nor GRANICUS shall be liable to the other for any special, incidental, exemplary or consequential damages arising from or as a result of any delay, omission or error in Electronic Recording transmission or receipt.

In no event will GRANICUS’ liability hereunder exceed $1,000 regardless of the form of the claim, including without limitation, any contract, product liability, or tort claim (including negligence, statutory or otherwise).

**Jurisdiction**

The laws of the State of Oklahoma shall govern the validity of this Memorandum of Understanding, its interpretation and performance, and any other claims related to it. In the

event of any litigation arising under or construing this Agreement, venue shall lie only in Oklahoma County, Oklahoma.

**Termination**

Any party may terminate this Memorandum of Understanding for any reason by providing 30 days written notice of termination. Termination of such agreement shall result in the immediate halt of Electronic Recording from the **COMPANY to CLERK.**

IN WITNESS WHEREOF, the parties hereto have executed this contract.

**CLERK GRANICUS** **INC.**

Signature Signature

Printed Name Printed Name

Title Title

Date Date

**COMPANY**

Signature

Printed Name

Title

Date

Approved this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2019.

**BOARD OF COUNTY COMMISSIONERS**

**OKLAHOMA COUNTY, OKLAHOMA**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Chairman

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Vice Chairman

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Member

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

David B. Hooten, County Clerk

Attachment A: Technical Specifications

**Format of the transmitted File**

Property Records Industry Association (PRIA) file format standard will be used and must comply with the Oklahoma Uniform Electronic Transaction Act. Images will be in Multi-page Group IV TIFF format.

If applicable, **COMPANY** agrees that the physical page count of the image file embedded in the XML format and the actual page count of document included in the XML file are the same.

**COMPANY** agrees to submit all documents at 300 DPI.

If applicable, **COMPANY** will, at a minimum; have validation embedded in their software to prevent inconstant page counts and incorrect DPIs from being transmitted to the **CLERK.**

**Communications Protocol and Options**

TCP/IP, HTTP and HTTPS

**Security Framework**

Encryption will be 128bit file and image encryption. SSL and user login/password will be employed. User passwords are controlled by the Submitter and should be monitored/or changed periodically to ensure security. Computers on which documents originate must have all critical operating system patches applied, must have a firewall (hardware or software) installed, and must have up to date virus scan software.

**Returned File Format**

PRIA file format standard will be used. Images will be in multi-page Group IV TIFF format.

**Levels of Electronic Recording Supported for Real Estate efilings**

Levels 1 and 2.

**Electronic Signatures and Use of Digital Certificates**

The use of Electronic Signatures and Digital Certificates will need to adhere to the guidelines set out in any applicable Oklahoma Statutes and when adopted the Oklahoma Archives and Records Commission rules for electronic filing.

**Imaging Standards**

Document will be scanned at 300 dpi.

Documents will be scanned in portrait mode.

Document images will be captured as multi-page Group IV TIFF images.

Scanned documents shall be legible. Legible in this instance means a clear, readable image – including signatures and notary seals – and in which all portion of each page are captured.

Document details, such as margins, font size, and other similar requirements, must meet all applicable Oklahoma recording laws.

Documents must be scanned to original size.

Attachment B: Documents and Indexing Specifications

Documents shall be accepted for filing according to the provisions of **Oklahoma** law.

Document types available for this program and indexing standards are selected by **CLERK** and **CLERK** has the right to make changes to any document and indexing procedure without notice. The approved documents types can be found on the **CLERK's** website or can be obtained via inquiry at the **CLERK's** office.

**Eligible Document Types**

Most document types recorded in a paper-based world are acceptable for E-Recording. Some documents may be rejected based on document size and other limiting factors.

**County Specific Document Type Coding**

**CLERK** has a drop down list of specific document type codes for **COMPANY** to select from. The County may correct the document type as part of the acceptance process.

**Document Imaging Quality Control Standards**

The xhtml document must display in W3C (World Wide Web Consortium) Standards.

**Notary Requirements per Document**

It is the responsibility of the E-Recording submitter to confirm that notary signatures and seals are present on all documents that require them. Notarial seals are not required although the data contained on a notarial stamp is required. Notarization and acknowledgment shall be subject to the provisions of the Oklahoma Uniform Electronic Recording Act, section 86.3(c) of Title 16, section 15-111 of Title 12A, Title 49 of the Oklahoma Statues, and when adopted the Rules of the Oklahoma Archives and Records Commission.

**Eligible Document Batches**

Document batches will be submitted by a standard naming convention as specified by the County Clerk. The maximum size of electronic document batches will be determined by the County Clerk.

Attachment C: Service Offering

**Training**

Training or install help can be provided by **GRANICUS** to the **COMPANY** at the standard hourly rate of $250.00 plus expenses.

**Hours of Operation**

Documents may be submitted at any time during the week. Documents will only be processed between 8:00am and 5:00p.m. (CST) on those days and hours that the **CLERK** Recording Office is open to the public for business. Documents will not be processed on **CLERK** holidays, weekends, "snow days," etc., or in the event of network or equipment failure. **CLERK** will attempt to notify the **COMPANY** of any disruption in service.

**Processing Schedules**

**CLERK** shall stop processing documents received via e-filing at 4:00 PM **CST** for the current business day.

**Turnaround Timeframe**

Every attempt will be made to process documents received prior to the time listed above, but no guarantee is made nor given.

**Alternative Delivery Options**

There are no other electronic delivery options at this time.

**Return to Options**

Submitted documents that are accepted for recording will be provided to the **COMPANY** in electronic format after acceptance. This confirmation will include the document image, indexing data and recording endorsement data. **CLERK** reserves the right to make changes to the index at a later date.

Submitted documents that are rejected will be returned to the **COMPANY** in electronic format after rejection, along with a description of the reason(s) for rejection.

Initially, reasons for rejections will be tabulated and discussed at 30 days and 120 days with the **COMPANY.**

Service Help Contact Information

**CLERK RECORDING CONTACT:**

Name: Kerrie Hudson

Real Estate/UCC Director for David B. Hooten, Oklahoma County Clerk

Telephone Number: (405)-713-1801 office

Fax Number: (405)-713-2241

Email Address: khudson@oklahomacounty.org

Web Site: <http://countyclerk.oklahomacounty.org>

**CLERK TECHNICAL CONTACT:**

Name: Walter Ades

Director of IT, for David B. Hooten, Oklahoma County Clerk

Telephone Number: (405)-713-1339

Email Address: wades@oklahomacounty.org

**COMPANY BUSINESS CONTACT:**

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

Telephone Number: (\_\_\_\_)-\_\_\_\_\_\_-\_\_\_\_\_\_\_

Email Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**COMPANY TECHNICAL CONTACT:**

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

Telephone Number: (\_\_\_\_)-\_\_\_\_\_\_-\_\_\_\_\_\_\_

Email Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**CLERK E-RECORDING VENDOR SUPPORT CONTACT:**

**GRANICUS**

Name: Elena Keck

Director of Implementation & Support

Telephone Number: (703) 787-7775 ext 122

Email Address: ekeck@granicus.com

**CLERK E-RECORDING VENDOR TECHNICAL CONTACT:**

**GRANICUS**

Name: Jeremiah Regodon

Telephone Number: (703) 787-7775 ext 1805

Email Address: jregodon@granicus.com

Attachment D: Payment Options

**ACH Payments**

The **CLERK** will accept Automated Clearing House (ACH) Debit transactions as the payment method for an eRecording transaction. The **COMPANY** must sign an authorization form, allowing Automated Clearing House (ACH) transactions against the account being used to process fees for documents submitted. It is the **COMPANY’S** responsibility to inform the **CLERK** of any changes that may affect an ACH transaction at least 10 days before the change. The **CLERK** may terminate the **COMPANY’S** authorization for failure to report changes in ACH, or for unavailability of funds. The **COMPANY** will not be able to access the eRecording system if applications have been accepted and the fees have not been collected.

The **CLERK** will assess and collect a fee from the **COMPANY** of Thirty-five Dollars ($35.00) for each ACH transaction that is returned due to unavailability of funds as provided by Title 19 Oklahoma Statutes (2008) Section 682.

**COMPANY** agrees to settle account daily by submitting collections via Automated Clearing House (ACH) to **CLERK**. **COMPANY** will provide all necessary reports in connection with ACH transactions.

The price per document for any and all ROD Electronic Recording submissions shall be $3.00. The **CLERK** and **GRANICUS** reserve the right to change the price for these services at any time with prior notice of 30 days to the **COMPANY**.

**Exception Handling**

Any discrepancy in fees discovered by **GRANICUS** after document acceptance will be corrected by **GRANICUS** within five **CLERK** business days and **COMPANY** will be provided with a notification of the error.