Document 7

Drafting Client Memoranda

Client memoranda are used for multiple purposes, including the following:

- To describe important business or legal issues that arose when drafting or negotiating and to obtain client input so that the issues can be resolved.
- To describe how drafting or negotiation resolved important business or legal issues.
- To report, in general, on negotiations that lawyers conducted.
- To pose specific questions (transaction structure; negotiation strategy).
- To answer specific questions that the client posed. (Is government consent required?)
- To inform the client of important information that the lawyer learned from the other side. (The other side is having trouble meeting payroll.)
- To describe a problem and to propose a solution.
- To report on the status of the deal.

These memoranda are some of the most important communications you will write to clients. Ethically, you have an obligation to keep a client up to date on the status of negotiations. Equally important is the client relations issue. The client will receive many memos, e-mails, and letters from you and will judge the quality of your work by what you write. Can you write informally without legalese, so that a nonlawyer can understand the salient points? Do you waste her time with minor issues or with long, nonessential, prefatory material? Can you state the law succinctly and, even more important, why it matters to the client as a business matter? She will make these judgments independently of your negotiation success and contract drafting ability.

The following guidelines will be helpful to you as you learn how to write memoranda. Of course, formal memoranda are often less common today because so many people correspond through e-mail. These guidelines apply also to e-mails to clients. After reviewing the guidelines, you can read two exemplar memos that relate to a house purchase agreement.

Guidelines for Drafting a Client Memorandum

1. *A formal memo has "To," "From," "Date," and "Re" or "Subject" lines.*

> To: Sara Nottingham
> From: Jake Rice
> Date: November 17, 20X5
> Re: Revised Trademark Licensing Agreement

2. *The introduction should be short so that the reader gets to the substance as quickly as possible.* The introduction should state the subject matter of the memo and where the conclusion or action items are (if any). Use language along the following lines:

> In reviewing the revised draft of the Trademark Licensing Agreement, please note the following. The memo concludes with three action items for you.

If the memorandum discusses just a few points, it may be helpful to precede the body of the memo with a list of bullet points. This crystallizes the purpose of the memo, facilitating its reading.

> This memorandum addresses the two key issues that remain outstanding:
>
> - Whether the Contractor will pay liquidated damages if it fails to keep on schedule.
> - Whether the parties will be obligated to mediate a dispute before resorting to litigation.

3. *Number each paragraph of the memorandum.*

> **Example 1**
>
> 1. First point
> 2. Second point

In addition, organize the memorandum in numerical order by section number and section heading to alert the reader to the topic of each paragraph.

> **Example 2**
>
> 1. **Section 3.2 — License Term**
> 2. **Section 4.1 — Royalties**

Finally, if you know a topic that particularly interests the client, address its location in the prefatory material, so that the client can immediately find it.

> **Example 3**
>
> In reviewing the revised draft of the Trademark Licensing Agreement, please note that the issues are addressed in the order in which they appear in the agreement. The memorandum addresses the exclusivity issue in Paragraph 6.

4. *Avoid legalese and draft simply.* The client may not be a lawyer, so technical legal terminology only impedes understanding. Often, technical language can be avoided by focusing on what the provision is intended to accomplish from a business perspective. Draft in a conversational tone, but with the recognition that a memo communicates information to the client and requires a degree of formality. It is not an e-mail to a friend.

5. *Draft succinctly.* The goal is a one-page memo—a case on a page. Business people have little time and less patience. The transaction or circumstances may

require a longer memo, but that takes nothing away from the advice to draft suc-
cinctly. Should you somehow reasonably end up with a multi-page memo, consider
including an *Executive Summary* at the memo's beginning.

6. *Don't bury the headline.* For each new point included in the memo, tell the
reader in the first sentence of the paragraph why it is important. For the client, that's
usually the business consequence.

7. *The memo should avoid the first person.* When describing the contract, do
not state what you did as the drafter. Instead, describe what the contract provides.

> **Wrong**
>
> I drafted Section 6.2 so that the Manufacturer is obligated to use first-
> quality raw materials.
>
> **Correct**
>
> Section 6.2 obligates the Manufacturer to use first-quality raw materials.

8. *If the draft changes the substance of a provision, explain how the redraft
changes the provision, describe the business or legal consequences, and sum-
marize the original provision.* This three-part discussion can be quite short if the
language is focused. If appropriate, consider suggesting alternative language for the
client to consider.

> **Example**
>
> Revised Section 4.2 requires the Manufacturer to inform you [the Retailer]
> promptly if it knows that a production delay is reasonably likely. This early
> notice should help in making timely merchandising decisions. The original
> draft had no notice requirement.

The *promptly* standard is vague. Would you prefer to make it more specific by replac-
ing *promptly if* with *no later than three business days after*?

9. *Don't provide the client with a detailed discussion of the law unless the cli-
ent needs the information to understand a business issue or to make a business
decision.* Explain first what the contract needs to provide from the business/legal
perspective and then tie it into the statute.

> **Wrong**
>
> The statute requires that the Corporation give 30 days' notice before it
> can do X. The initial draft provided for only 25 days' notice. The new date of
> March 13, 20XX complies with the statute.
>
> **Correct**
>
> Revised Section 15.2 extends the deadline for receipt of notice from
> potential claimants to March 13, 20XX—an extra ten days. The new date
> now complies with the statutory requirement. The time period in the earlier
> draft was too short.

10. *Don't quote the agreement or a statute.* Instead, summarize the relevant language using nonlegal terminology and explain why, from a business perspective, the client should care.

11. *Do more than spot and list issues and problems.* Propose ways to resolve these matters and move the deal forward.

12. *Use formatting to enhance clarity.* For example, if five business issues remain, set them out indented with bullets. Then address each of the issues in turn.

13. *Remember that you are not the decision maker with respect to business issues.* Issues of fairness are ultimately business issues and for the client's approval. That said, as you become more senior, some clients may turn to you for business and strategic advice. Wait until you are asked.

> **Wrong**
>
> I think that Section 6.7 as revised is fair to both parties. Mr. Sanchez will be deemed disabled if he cannot work because of illness or injury for 60 consecutive business days. This reflects an equitable number of days missed from work to warrant termination. It will cover most ailments that have a long recovery, but still allow the Company to replace Mr. Sanchez reasonably quickly if necessary.
>
> **Correct**
>
> Section 6.7, as revised, provides that Mr. Sanchez is deemed disabled if he is absent for 60 consecutive business days because of illness or injury. At that time, you could replace him. Please let me know if this time frame works from your perspective.

14. *Do not refer to a provision without providing details of why it is important.*

15. *Do not recite every change made to the contract.* Include only what is important as a business or legal matter. The client is not your professor. Even your professor probably doesn't want that detail.

16. *Single space the memo and insert a blank line between paragraphs.*

17. *Do not discuss formatting or other drafting matters.*

18. *Spend time editing the memo and proofreading it.* Neatness counts. Glaring spelling errors suggest inattention to detail, calling into question all that you have done.

19. *End the memo by addressing action points.* What are the next steps? Does the client need to do something? Is there a critical deadline that the client must meet?

> **Matters requiring attention:**
>
> ■ Please provide the unaudited quarterly financials for the last fiscal year.
> ■ Consult with the other side to determine whether they will agree to mediation before beginning litigation.

Client Memorandum — Exemplar 1

To: Bob Buyer
From: Attentive Lawyer
Date: August 15, 20X5
Re: House Purchase Agreement

Attached is the first draft of the House Purchase Agreement. Please review the noted sections. Paragraph 4 of this memo discusses the mold inspection and its consequences.

1   **Section 2.1 — Assets Purchased**. As you requested, window treatments are included in the schedule of household items also being purchased. As we did not previously discuss this with the other side, I will mention it in my cover memo to them.

2.   **Section 2.2 — Purchase Price**. This section provides for the following two adjustments to the purchase price:

(a)   The purchase price will increase or decrease based on the amount of oil in the tank on the closing date.

(b)   The purchase price will decrease to reflect an allocation between the parties with respect to county taxes that you previously paid.

If the seller agrees to your request with respect to the carpet cleaning, the purchase price provision will also need to include an adjustment for the related costs. The carpets are discussed in the next paragraph.

3.   **Section 5.2 — Carpets**. In this section, the contract provides that the seller is obligated to have the carpets professionally cleaned no later than the closing date. If they are cleaned, the purchase price will be reduced by the cost of the service, but no more than $500.

4.   **Sections 5.3, 7.2, and 9.1 — Mold Inspection**. These sections permit you to have the house inspected for mold and give you the right not to close if the inspector finds the house is not mold-free. If you do not purchase the house because of mold, you are entitled to the return of your $5,000 down payment.

The other side has asked that we get them the first draft of the House Purchase Agreement no later than Friday. Accordingly, I would appreciate any questions or comments about this draft no later than Thursday, 5:00 p.m. If this timing is problematic, I will arrange for a later delivery to the other side. Just let me know.

A.L.

Client Memorandum — Exemplar 2

To: Bob Buyer
From: Attentive Lawyer
Date: August 23, 20X5
Re: Revised House Purchase Agreement

Enclosed is a draft of the House Purchase Agreement, marked to show changes from the first draft and reflecting yesterday's negotiation. The two key issues are proposed purchase price increases (discussed in Paragraph 1) and the Seller's refusal to delay the closing date. Paragraph 2 discusses her counterproposal.

1.   **Article 2 — Purchase Price**.

(a)   **Window Treatments** (First draft, Section 2.1). The Seller wants you to pay an additional $500 for the window treatments. You may, of course, make a lower counteroffer or choose not to purchase the window treatments.

(b)   **Carpet Cleaning** (First draft, Section 5). The Seller has agreed to have professionals clean the carpets, but will pay no more than $300, not the $500 you requested. Are you willing to pay the difference as part of the purchase price? Do you want to stipulate the carpet cleaner to be used?

2.   **Section 2.4 — Closing Date**. The Seller has refused to extend the closing date to November 30th to give you time to obtain financing. She wants to close no later than September 15th, but has offered short-term seller financing of $150,000 at 5%. (That means you must pay $50,000 of the purchase price at closing.) The borrowing, plus accrued interest, would be due no later than the date of your closing with a lender. If you do not pay the Seller before November 30th,

(a)   the full amount of the financing, plus accrued interest, is due on November 30th;

(b)   ownership of the house reverts to the Seller on November 30th; and

(c)   the Seller is obligated to repay you $40,000 by wire transfer on November 30th, meaning she is entitled to keep $10,000 of the $50,000 paid at closing as liquidated damages.

3.   **Termite Inspection — new**. Local law requires that the house be professionally inspected for termites. The Seller has requested that we include the standard provision requiring a buyer to pay for the inspection. The usual cost is about $750.

Please let me know if you have any questions or comments and how you would like to address the purchase price and closing date issues.

A.L.

Document 8

Website Development Agreement (Version 2)

This **Website Development Agreement** is dated January 8, 20XX and is between Go-Karts Corp., a California corporation (the "**Client**"), and Website Designs, Inc., a Michigan corporation (the "**Developer**").

This Agreement provides for the Developer's development of a website[1] for the Client.

The parties agree as follows:

1.   **Definitions and Defined Term.**

    1.1   **Defined Terms**. Terms defined in the preamble have their assigned meanings and each of the following terms has the meaning assigned to it.

"**Agreement**" means this Website Development Agreement, including **Exhibit A**, as each may be amended from time to time.

"**Business Day**" means any day other than a day that a bank in San Jose, California is required or permitted to be closed.

"**Change Order**" means an agreement that changes or supplements the Services.[2]

"**Content**" means all text, images, sound, graphics, and other materials describing the Client's business and industry.

"**Developer Programming**" has the meaning assigned to it in Section 8.1.

"**Down Payment**" has the meaning assigned to it in Section 4.2.1.

"**Effective Date**" means the date the second party to execute and deliver this Agreement delivers the executed Agreement to the other party, the date of delivery to be the date of the other party's receipt of the executed Agreement.[3]

"**Services**" means the services listed in the Scope of Services section in **Exhibit A**.

"**Team**" means the employees the Developer assigns to perform the Services.

1. Should website be defined in the recital?

2. Would the following definition be better? *"Change Order" means an agreement executed and delivered by the parties that changes or supplements the Services.*

3. Why does it matter that the Effective Date requires delivery of the executed agreement to the first party who signed?

"**Website**" means a collection of interconnected web pages on the Internet, pertaining to the Client.

"**Works**" means the Website and all other deliverables, including all derivative deliverables, resulting from the performance of the Services.

1.2   Interpretive Provisions.[4]

1.2.1   **References to Sections, etc**. References to Sections, subsections, and Exhibit A are references to Sections, subsections, and Exhibit A of this Agreement.

1.2.2   **References to a Person**. References to a person include that person's permitted successors and assigns and, in the case of any governmental person, the person succeeding to the governmental functions of that person.

1.2.3   *Including* **and Its Variations**. The words *including*, *includes*, and *include* are deemed to be followed by the words *without limitation*.

2.   Development of Website.

2.1   Hiring of the Developer. By executing and delivering this Agreement, the Client hires the Developer to design and develop the Website for the Client.

2.2   Design and Development of the Website. Subject to the provisions of this Agreement, the Developer shall design and develop the Website by performing the Services.

3.   Effective Date.

3.1   Effective Date. This Agreement is effective on the Effective Date.[5]

3.2   Termination of Agreement. This Agreement terminates on the third Business Day after the Effective Date at 5:00 p.m., San Jose, CA time, if the Developer has not received the Down Payment required by Section 4.2 by that time. In that event, neither party has any rights or obligations against the other.[6]

4.   Fees.

4.1   Estimate and Cap. The Developer estimates that its fee for performing the Services will be between $12,000 and $15,000.[7]

Despite the preceding sentence, the maximum that the Client is obligated[8] to pay the Developer for the Services, as described in Exhibit A, is $17,000. If the parties agree to a Change Order, the new cap is the amount the parties agree to at that time.[9] If the parties do not agree to a new cap, but only an estimated range, then the new cap is the higher number of any estimated range *plus* 10% of that number.[10]

4.2   Down Payment.

4.2.1   **Amount of the Down Payment**. The down payment is $6,000 (the "**Down Payment**").

4.2.2   **Obligation to Pay the Down Payment**. The Client shall wire transfer the Down Payment in immediately available funds (San Jose, CA) to the Developer's bank account no later than three Business Days after the Effective Date. The Client shall use the following wire instructions:

> Big City Bank, 738 Fulton Ave., San Jose, California
> Website Designs, Inc. #485930284
> ABA 0390000000
> Swift Code BCBUS33

4.3   Additional Payments.

4.3.1   **Billing Rates**. The billing rates for Team members range from $75 to $225 an hour. The Developer may increase these rates only after having given the Client at least 30 days prior notice.[11]

4.3.2   **Amount to Be Paid**. The Client shall pay the Developer for each quarter hour that a Team member works, except if the cap has been reached. In that event, the Client's obligation to pay any amount in excess of the cap is discharged. In determining the amount that the Client is obligated to pay, the Developer shall give the Client a credit equal to the amount of the Down Payment.

4.3.3   **Form of Invoice**. With respect to each month that the Developer provides Services, the Developer shall send an invoice[12] to the Client indicating

(a)   the number of hours each Team member worked;

8. Should *is obligated* be replaced with *shall*?

9. Note the parallel language in the third and fourth sentences and that the contract avoids any gap by stating what happens in the two alternative situations. What happens if the parties do not agree to an estimated range?

10. Even simple financial calculations should use mathematical language.

11. Should this sentence provide for *written notice*?

12. What is wrong with the following sentence? *The invoice shall state the following:*

(b)   the billing rate for each Team member;

(c)   the aggregate invoiced fee for each Team member;

(d)   the aggregate invoiced fee for the Team; and

(e)   the amount by which the invoice has been reduced to reflect any outstanding credit arising from the Down Payment.

If the cap has been reached, the Developer shall continue to send invoices to the Client, but the Developer shall indicate on the invoice that the Client is not obligated to pay the invoiced amount.[13]

13. Why is *is not obligated to pay correct and shall not pay* incorrect?

4.3.4   **Form and Timing of Payment**. The Client shall pay each month's invoice by company check or by wire transfer. In either case, the Client shall cause payment to be received no later than ten Business Days after the Client's receipt of that month's invoice.

5.   **Provision of Services**.

5.1   **Quality of Services**. The Developer shall perform the Services using sound professional practices and in a competent and professional manner by knowledgeable and qualified employees.

14. Is *or* inclusive or exclusive? What drafting might make the intent more explicit?

5.2   **Content**. The Client shall not deliver any Content to the Developer that

5.2.1   it does not own or have a right to use; or[14]

5.2.2   is defamatory, libelous, or otherwise actionable.

15. Assume the penultimate sentence in Section 5.3 were drafted as follows: *The Developer may replace any employee with another employee, but only after it receives the Client's prior consent.* How could the Client argue that the contract permitted the Developer to change only one member of the Team?

5.3   **The Developer's Employees**. No later than five Business Days after the Effective Date, the Developer shall assign the following employees to be the Team members providing the Services to the Client: Omar Adams, Kyla Rubin, and Marla Wojinsky. The Developer may replace one or more of these employees with other employees, but only after it receives the Client's prior consent.[15] The Client shall not unreasonably withhold its consent.

16. What was the Developer's business intent in drafting this covenant? How is the Client protected? How could the parties elaborate on this covenant to guide the parties as to the parameters of *commercially reasonable efforts*?

5.4   **Schedule**. The Developer shall use commercially reasonable efforts to provide the Services as efficiently as possible with the goal of completing the Services no later than April 30, 20XX.[16]

5.5   **Liens**. The Developer shall perform the Services so that each Work is free of liens or other encumbrances at the time that it is delivered.

5.6   **Change Orders**. If from time to time the Client wants to change or supplement any Service, the parties must execute and deliver a Change Order. A Change Order is effective when the first party to execute and deliver the Change Order receives the fully executed Change Order from the other party. This Agreement's provisions govern if this Agreement and a Change Order conflict.

5.7   **Compliance with Laws**. In performing the Services, the Developer shall comply with all federal, state, local, or foreign laws, rules, and regulations, as each is in effect from time to time.[17]

6.   **Client Representative**.[18] No later than five Business Days after the Effective Date, the Client shall assign a representative to work with the Team and notify the Developer who that representative is. The Client shall give the representative the authority to sign Change Orders and to make all other decisions concerning the Website and the Services.[19] At any time, the Client may remove the then-current representative and assign another representative to work with the Team.

7.   **Content**.

7.1   **Initial Content**. No later than ten Business Days after the Effective Date, the Client shall deliver to the Developer the following:

   7.1.1   The Website's URL.

   7.1.2   The Content that it wants incorporated into the Website.

7.2   **Additional Content**. If the Client wants to change the Content after the Developer has incorporated it into the Website, the Developer is entitled to an additional fee,[20] which the Client shall pay, all of which must be documented by a Change Order that both parties sign.

8.   **Ownership**.

8.1   **Definition**. "**Developer Programming**" means any programming or software that the Developer creates, or has created, outside of this Agreement but uses in the Works.[21]

17. What is wrong with this covenant from the Developer's perspective?

18. What are the business purposes of Sections 5.3 and 6? Despite their similarity, Section 6 does not require the consent for a change in representative, although Section 5.3 requires the Client's consent for a change in the Team members. Why would the parties agree to different procedures?

19. The second sentence in Section 6 includes a nominalization. How could that be corrected?

20. Have the parties erred in drafting this provision as an entitlement of the Developer rather than a covenant of the Client? How would you redraft this provision so that it conforms to Section 5.6?

21. Why is *Developer Programming* defined in context?

8.2 **Work for Hire**.

    8.2.1 **Rights to the Works**. The Works are works made for hire and all rights to them vest in the Client.[22] The Developer has no right to them or any interest in them and shall not use them to benefit anyone other than the Client.

    8.2.2 **Assignment of Rights in the Works**. By signing this Agreement, the Developer assigns to the Client

        (a) all rights in each Work that do not vest in the Client by operation of law; and

        (b) all copyright interests in each Work for the entire period of that Work's copyright protection.

8.3 **Developer Programs**.[23] The Developer retains all rights to all Developer Programming, but grants to the Client a perpetual, nonexclusive license to use all Developer Programming in connection with the Works.

9. **Warranties**.[24] The Developer warrants that the Works will

9.1 be usable by the Client for the purposes for which they were intended;

9.2 operate in conformity with the specifications listed in Exhibit A; and

9.3 be free of viruses, Trojan horses, and other software that could damage the Website or the computer of any user of the Website.

10. **Representations and Warranties**.

10.1 **Developer**. The Developer represents and warrants to the Client as follows:

    10.1.1 **Organization**. The Developer is a corporation duly organized, validly existing, and in good standing under the laws of its jurisdiction of incorporation.

    10.1.2 **Corporate Power and Authority**. The Developer has all requisite corporate power and authority

        (a) to own, operate, and lease its properties, and to carry on its business as now being conducted; and

(b)   to execute, deliver, and perform this Agreement.

10.1.3   **Authorization**.[25] The Developer has taken all necessary corporate action to authorize the execution, delivery, and performance of this Agreement.

10.1.4   **Enforceability**. The Developer has duly executed and delivered this Agreement, and it constitutes the Developer's legal, valid, and binding obligation. This Agreement is enforceable against the Developer in accordance with its terms, except to the extent that enforcement is limited by either one or both of the following:

(a)   Applicable bankruptcy, insolvency, reorganization, moratorium, or other similar laws affecting creditors' rights generally.

(b)   General equitable principles, regardless of whether the issue of enforceability is considered in a proceeding in equity or at law.

10.1.5   **Team Members**. The Team members listed in Section 5.3 are knowledgeable and qualified to perform the Services.

10.2   **Client**. The Client represents and warrants to the Developer as follows:[26]

10.2.1   **Organization**. The Client is a corporation duly organized, validly existing, and in good standing under the laws of its jurisdiction of incorporation.

10.2.2   **Corporate Power and Authority**. The Client has all requisite corporate power and authority

(a)   to own, operate, and lease its properties, and to carry on its business as now being conducted; and

(b)   to execute, deliver, and perform this Agreement.

10.2.3   **Authorization**. The Client has taken all necessary corporate action to authorize the execution, delivery, and performance of this Agreement.

10.2.4   **Enforceability**. The Client has duly executed and delivered this Agreement, and it constitutes the Client's legal,

25. What is the substantive difference between subsections 10.1.2 and 10.1.3?

26. Note that the two sets of representations and warranties parallel each other in the order that the representations and warranties are stated.

valid, and binding obligation. This Agreement is enforce-able against the Client, except to the extent that enforce-ment is limited by either one or both of the following:

(a)   Applicable bankruptcy, insolvency, reorganization, moratorium, or other similar laws affecting creditors' rights generally.

(b)   General equitable principles, regardless of whether the issue of enforceability is considered in a pro-ceeding in equity or at law.

11.   **Development Credit**. The Client shall acknowledge the Developer as the Website developer on the Website page entitled "About the Site." The Client may remove the acknowledgment if it materially changes the Website after this Agreement terminates.

27. Explain the interaction between Section 12 and Section 3.2.

12.   **Termination**.[27]

12.1   **Termination**. Except as provided in Section 3.2 and Section 12.2, this Agreement terminates when the Developer has completely performed the Services and the Client has paid all fees in accor-dance with Section 4.

12.2   **Termination for Cause**. A nonbreaching party may earlier termi-nate this Agreement by notifying the alleged breaching party of the former's intent to terminate if the allegedly breaching party did one or more of the following:

12.2.1   Materially misrepresented a fact.

12.2.2   Materially breached either a warranty or covenant.

This Agreement terminates on the tenth Business Day after a party receives a notice of intent to terminate. On termination, the terminating party has all rights and remedies that law and equity provide. Despite the previous sentences in this Section 12.2, if the Client does not pay the Down Payment in accordance with Sec-tion 4.2.2, then Section 3.2 governs termination, not this Section 12.2.[28]

28. Why is the second sentence required?

13.   **General Provisions**.

13.1   **Governing Law**. The internal laws of California govern all matters arising under or relating to this Agreement, including torts.

13.2   Assignment and Delegation. The Developer shall not assign its rights or delegate its performance under this Agreement without the Client's prior consent. The Client may assign its rights and delegate its performance. For the purposes of this Section, an assignment includes a change of control.[29]

29. How would you change this provision to make any purported assignments by the Developer unenforceable?

13.3   Successors and Assigns. This Agreement binds and benefits the parties and their respective permitted successors and assigns.

13.4   Notices. The parties shall send all notices in writing and give all consents in writing. A notice or consent is effective when the intended recipient receives it.

13.5   Merger. This Agreement is the final and exclusive statement of the parties' agreement on the matters contained in this Agreement. It supersedes all previous negotiations and agreements.

13.6   Amendments. The parties may amend this Agreement only by an agreement in writing that both parties execute.

13.7   Counterparts. The parties may execute this Agreement in counterparts, each of which constitutes an original, and all which, collectively, constitute only one agreement. The delivery of an executed counterpart signature page by facsimile or PDF is as effective as delivering this Agreement in the presence of the other party to this Agreement. This Agreement is effective as stated in Section 3.

To evidence the parties' agreement to this Agreement, each party has executed this Agreement on the date stated beneath that party's name.

Website Designs, Inc.

By: _____
        Walter Kelley, President

Dated: _____

Go-Karts Corp.

By: _____
        Esther Grant, President

Dated: _____

Exhibit A

Scope of Services

- Creative consulting.
- Creation of site map.
- Three mock-ups of home page.
- Two revisions of chosen home page.
- Three mock-ups of secondary page.
- Two revisions of chosen secondary page.
- Programming for 30 static pages.
- Launch and testing of Website.

Specifications

- Website to work with multiple browsers.
- Website to work with multiple operating systems, including those created by Microsoft or Apple.
- Client to be able to make changes to the Website using a commercially available software application.