



Memorandum of Understanding

Document 1483A

www.leaplaw.com

This document and the LeapLaw web site is provided with the understanding that neither LeapLaw Inc. nor any of the providers of information that appear on the web site is engaged in rendering legal, accounting or other professional services. If you require legal advice or other expert assistance, you agree that you will obtain the services of a competent, professional person and will not rely on information provided on the web site as a substitute for such advice or assistance. Neither the presentation of this document to you nor your receipt of this document creates an attorney-client relationship.

MEMORANDUM OF UNDERSTANDING

CONCERNING

PROPOSED DEVELOPMENT PROGRAM

BETWEEN

[NAME PARTIES]

This Memorandum of Understanding (“**MOU**”) is by and between [COMPANY 1] (“**[COMPANY 1]**”), having its principal office at [PRINCIPAL ADDRESS] and [COMPANY 2] (“**[COMPANY 2]**”), having its principal office at [PRINCIPAL ADDRESS]. ([COMPANY 1] and [COMPANY 2] are sometimes hereinafter referred to individually as a “**Party**” or collectively, the “**Parties**”).

Background

[COMPANY 1] has developed and interactive, knowledge based web site designed to provide [STATE SERVICES]. [COMPANY 1]’s web site is called [NAME OF WEB SITE] and [COMPANY 1] expects to initiate its first sales within 30 days.

[COMPANY 1] believes that a key component of [WEB SITE]’s business will be in the form development, organization and customization of [NAME OF PRODUCT].

[COMPANY 2] has developed innovative and proprietary techniques for customizing legal forms using commercially available software such [LIST SOFTWARE]. [COMPANY 2]’s skills and expertise may be ideally suited to achieving [COMPANY 1]’s goals.

[COMPANY 2] and [COMPANY 1] have determined that it is in their mutual best interests to explore the possibilities of a business relationship. After meetings and discussions between [COMPANY 1] and [COMPANY 2], it appears that the two companies have complementary capabilities and are interested in exploring a relationship for the purpose of developing products for the [NAME OF MARKET]. As a first step, the parties desire to conduct a feasibility study to determine the overall business opportunity and commercial feasibility of [COMPANY 1]’s services.

Vision

The vision shared by the parties is to develop and demonstrate a commercially viable technique for [DEFINE PROJECT] (the “**Project**”).

Benefits

[COMPANY 1] will gain access to the innovative techniques and expertise of [COMPANY 2] for [STATE BENEFITS].

[COMPANY 2] would gain the ability to [STATE BENEFITS].

NOW, THEREFORE, the Parties agree as follows:

1. Project Development. [COMPANY 1] and [COMPANY 2] agree to complete the Project in a timely manner by working together to complete the following tasks:

(i) [COMPANY 1] will provide [COMPANY 2] with all documents necessary for completion of the Project. [COMPANY 1] will also provide [COMPANY 2] with the necessary expertise to complete the Project, giving [COMPANY 2] access to its professional and technical personnel.

(ii) [COMPANY 2] will design a system using a commercially available software program that will complete the Project. Although it is intended that the Project is to be flexible and the Parties expect that as the Project progresses, changes and new ideas will be incorporated into the Project, the parties have discussed the following features for the overall document assembly and customization:

[DESCRIBE]

(iii) [COMPANY 2] and [COMPANY 1] will collect, evaluate and share relevant market data for the purpose of examining the market feasibility of the Project.

The Parties agree to use their respective commercially reasonable efforts to complete the Project within [NUMBER (___)] months from the date hereof

If upon the completion of the Project, the Parties determine that the Project is not commercially viable, the Parties hereto shall have no obligation to proceed hereunder, except as otherwise agreed.

2. Cooperative Development Agreement. If, upon completion of the Project, the Parties agree to proceed with a more comprehensive development plan, they agree to enter into a Cooperative Development Agreement on mutually agreeable terms for a program to design, engineer and develop a commercially viable system for [DESCRIBE PROJECT] (the “**Program**”). The Cooperative Development Agreement shall include a clear division of responsibilities between the Parties, a work breakdown structure, task descriptions, schedule and estimated cost.

3. Intellectual Property. Upon completion of the Project, both Parties shall have full rights to use all aspects of the finished product without limitation of any kind (other than such limitations as may be imposed by owners of third party software used in the Project) and both Parties agree to take such actions as may be reasonably necessary to perfect the other Party’s interest in such finished product. In furtherance of the foregoing, each Party hereby grants to the other a world wide, non-exclusive, non-cancelable, royalty free license to use, sell, transfer, sublicense, pledge, hypothecate, modify, alter, expand, improve and create derivative works

from such finished product. The Parties represent, warrant and covenant that they will not knowingly include in any phase of the Project, including the finished product, any intellectual property or proprietary information of any third party except if, and to the extent, such third party has granted to such Party rights in such intellectual property or proprietary information sufficient for such Party to perform its obligations hereunder.

4. Confidentiality.

In connection with completion of the Project, the Parties anticipate that they will make available to each other and their respective directors, officers, employees, agents and representatives (collectively, "**Representatives**") certain confidential information concerning their respective proprietary information, including but not limited to designs, concepts, drawings, ideas, inventions, specifications, techniques, discoveries, models, reports, data, content material, source code, object code, documentation, diagrams, flow charts, file record layouts, databases, research, development, processes, procedures, know-how, show-how, new product or new technology information, marketing techniques and materials, marketing plans, trade secrets, timetables, strategies and development plans (including prospective trade names or trademarks), customer names and other information related to customers, pricing policies, and financial information (collectively, the "**Confidential Information**"). The sole purpose of and use of the Confidential Information shall be to complete the Project. In this Paragraph 4, all references to a Party or the Parties include their respective Representatives and any persons and entities such Party controls, is controlled by or with which it is under common control. With respect to the treatment of Confidential Information, the Parties Agree as follows:

(i) The Parties will use the Confidential Information solely for the purpose of completing the Project and that the Confidential Information will be kept strictly confidential.

(ii) The term "**Confidential Information**" does not include any information that (a) is or becomes available to the public as a result of disclosure by the disclosing Party or any third party unrelated to the disclosing Party, (ii) was available to the non-disclosing Party on a non-confidential basis prior to its disclosure, (iii) becomes available to the non-disclosing Party on a non-confidential basis from an independent source provided that such source is not bound by a confidentiality agreement with the disclosing Party or (iv) is developed by the non-disclosing Party independently and without reference to information provided by the disclosing Party.

(iii) Without the prior written consent of the disclosing Party (or unless permitted by clause (iv) below), the non-disclosing Party will not disclose to any person or entity either the fact that Project is ongoing or the status thereof, unless in the opinion of the non-disclosing Party's counsel disclosure is required to be made under any applicable law or regulation.

(iv) In the event any Party receives a request or order from a court or other governmental agency of competent jurisdiction to disclose all or any part of the Confidential Information, such Party agrees that to the extent it is not prejudiced thereby, it will (a) immediately notify the other Party of the existence, terms, and circumstances surrounding such a request or order and (b) give such other Party the opportunity at its sole cost and expense to seek a protective order with respect to such disclosure or otherwise resist or narrow such request or order.

(v) Except as contemplated by Paragraph 3 hereof, the Parties agree that at the conclusion of the Project, or at such date as either Party shall request, all copies of the Confidential Information in any form whatsoever will be returned and no copy thereof shall be retained.

5. Expenses. Each Party shall be responsible for its own fees and expenses incurred in connection with the transactions and activities contemplated by this MOU (including without limitation legal, accounting, and consulting fees and expenses).

6. Termination. This MOU may be terminated (i) by mutual written consent of the Parties at any time, or (ii) upon written notice by any Party to the other Party if the Project has not been completed by [DATE] (“**Termination**”), and each Party shall have no further obligations hereunder; provided, however, that Termination shall not affect or relieve the liability of any Party for breach of any obligations contained in Sections 3, 4, 5, 7, 8, 10, 11, 12, 13 and 14 which shall survive any such Termination.

7. Governing Law and Jurisdiction. This MOU shall be governed by the laws of the [STATE] without giving effect to the conflict of laws provisions thereof.

8. Entire Agreement; Amendment; Waiver. This MOU constitutes the entire agreement between the Parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations and understandings of the Parties. No supplement, modification, or amendment of this MOU will be binding unless executed in writing by both Parties. No waiver of any of the provisions of this MOU will be effective unless in writing; no waiver will constitute a waiver of any other provision; and no waiver of a breach of any provision of this MOU will operate to waive any subsequent breach.

9. Counterparts. This MOU may be executed in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

10. Parties in Interest. Nothing in this MOU, whether express or implied, is intended to confer any rights or remedies under or by reason of this MOU on any persons other than the parties to it and their respective successors and assigns, nor is anything in this MOU intended to relieve or discharge the obligation or liability of any third persons to any party to this MOU, nor will any provision give any third persons any right of subrogation or action against any party to this MOU.

11. Successors and Assigns. This MOU is transferable by mutual agreement of the Parties and will be binding on, and will inure to the benefit of, the Parties and their respective successors and assigns.

12. Further Assurances. Each Party shall, from time to time, execute and deliver such additional documents and instruments and take such additional actions as may be necessary to carry out the transactions contemplated by this MOU.

13. Notices. Any notice, consent, approval or other communication required or permitted hereunder will be in writing and will be given (i) by delivery in person, (ii) by certified mail, return receipt requested, (iii) by commercial overnight courier, or (iv) by facsimile transmission

(telecopy) (with telephone confirmation of receipt) to the Party at the address first written above, or to such other address for any Party as may be designated by notice to the others. Any such notice or other communication will be considered to have been given on the earlier of actual receipt or (i) on the date of delivery in person, (ii) on the fifth day after mailing by certified mail, provided that receipt of delivery is confirmed in writing, or (iii) on the first business day following delivery to a nationally recognized commercial overnight courier, or (iv) on the day of facsimile transmission (telecopy) provided that the giver of the notice obtains telephone confirmation of receipt.

14. Severability. If any provision of this MOU is held invalid or unenforceable by any court of final jurisdiction, it is the intent of the Parties that all other provisions of this MOU be construed to remain fully valid, enforceable and binding on the Parties.

[The remainder of this page has been intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF, the Parties hereto have executed this MOU as of date first written above.

WITNESS:

[COMPANY 2]

By: _____
Name:

By: _____
Name:
Title:

WITNESS:

[COMPANY 1]

By: _____
Name:

By: _____
Name:
Title: