

## PROFESSIONAL SERVICES AGREEMENT

Beginning on October 1, 2016 (the "Effective Date"), but retroactive from the beginning of your work on this project, "*HaxeFlixel*", August 1, 2016, Хохлов Александр (Aleksandr Khokhlov), whose principal address is [REDACTED]

[REDACTED] ("Contractor"), shall perform services on behalf of **Level Up Labs, LLC**, whose principal address is [REDACTED] ("**Level Up Labs**") pursuant to the terms and conditions set forth in this Professional Services Agreement, including Schedules A and B, attached hereto and made a part hereof (this "Agreement").

unique asset of **Level Up Labs**, and that the disclosure of such information to any unauthorized person or the unauthorized use of such information would cause substantial and irreparable injury to **Level Up Labs** for which it would have no adequate remedy at law. Accordingly, Contractor agrees that, in the event of any breach or attempted or threatened breach of any of the terms of this Paragraph, **Level Up Labs** shall be entitled, in addition to any other remedies which may be available, to injunctive and other equitable relief.

1. Contractor shall render to **Level Up Labs** the services described in Schedule A ("Services"). **LARS DOUCET** shall be the **Level Up Labs** representative responsible for overseeing Contractor's performance of the Services. Contractor acknowledges and agrees that time is of the essence regarding the performance of the Services.

2. As full consideration for Contractor's performance of the Services, **Level Up Labs** shall compensate Contractor as set forth in Schedule B. All deliverables or service milestones set forth in Schedule B (each a "Milestone") shall be subject to **Level Up Labs's** acceptance and approval following submission. In the event of any Milestone rejection, Contractor shall remedy and resubmit such Milestone for re-consideration.

3. Unless terminated by either party as provided herein, this Agreement shall become effective on the Effective Date and shall remain in full effect until **August 1, 2017**.

4. Contractor is not authorized to incur any expenses on behalf of **Level Up Labs** without **Level Up Labs's** prior written consent. Expenses incurred by Contractor on behalf of **Level Up Labs** with **Level Up Labs's** prior written consent shall be reimbursed within thirty (30) business days after Contractor has submitted receipts or other substantiating documentation to **Level Up Labs** together with a statement of expenses.

5. Either party has the right, in its sole discretion, to terminate this Agreement at any time and for any reason upon prior written notice to the other party. In the event of such a termination, **Level Up Labs** shall be obligated to compensate Contractor, as provided in Schedule B.

6. Without prior written authorization from **Level Up Labs**, Contractor shall not, either during or subsequent to the term of this Agreement, directly or indirectly disclose any confidential information of **Level Up Labs** to any person not authorized by **Level Up Labs** to receive such confidential information, or use any such confidential information for any purpose except as reasonably required for the proper performance of this Agreement. For the purposes hereof, "confidential information" shall mean all non-public information relating to **Level Up Labs** (whether acquired or developed by Contractor during performance of this Agreement or obtained from **Level Up Labs** employees or Contractors), including without limitation the Services to be rendered hereunder by Contractor, any products or projects proposed, planned or under development by **Level Up Labs** and/or persons doing work under contract to or for the benefit of **Level Up Labs**, any market data, any financial data, any product designs or specifications, and any software or website code. Contractor further acknowledges and agrees that it shall maintain all such confidential information in a manner so as to prevent unauthorized use or reproduction thereof. Contractor acknowledges and agrees that all such confidential information is proprietary to **Level Up Labs** and is a valuable and

7. Contractor shall return to **Level Up Labs** any **Level Up Labs** property that comes into Contractor's possession during the term of this Agreement, when and as requested to do so by **Level Up Labs** and in all events upon termination of Contractor's engagement hereunder, unless Contractor receives written authorization from **Level Up Labs** to keep such property. Contractor shall not remove any **Level Up Labs** property from **Level Up Labs's** premises without written authorization from **Level Up Labs**.

8. As part of this Agreement, and without additional compensation, Contractor acknowledges and agrees that any and all tangible and intangible property and work products, ideas, inventions, discoveries and improvements which are conceived, developed, created, obtained or first reduced to practice by Contractor for **Level Up Labs** in connection with the performance of the Services (collectively referred to as the "Work Product"), including without limitation all technical notes, treatments, schematics, software source and object code, prototypes, artwork, sketches, designs, drawings, paintings, illustrations, animations, video, film, artistic materials, photographs and any film from which the photographs were made, literature, methods, processes, voice recordings, vocal performances, narrations, spoken word recordings and unique character voices, shall be considered "works made for hire" and therefore all right, title and interest therein (including, without limitation, patents and copyrights) shall vest exclusively in and shall be the exclusive property of **Level Up Labs**. To the extent that all or any part of the Work Product does not qualify as a "work made for hire" under applicable law, Contractor without further compensation therefore does hereby irrevocably assign, transfer and convey in perpetuity to **Level Up Labs** and its successors and assigns the entire worldwide right, title, and interest of Contractor in and to the Work Product including, without limitation, all patent rights, copyrights, mask work rights, trade secret rights and other proprietary rights therein. Such assignment includes the transfer and assignment to **Level Up Labs** and its successors and assigns of any and all moral rights which Contractor may have in the Work Product. Contractor acknowledges and understands that moral rights include the right of an author to be known as the author of a work; to prevent others from being named as the author of the works; to prevent others from falsely attributing to an author the authorship of a work which the author has not in fact created; to prevent others from making deforming changes in an author's work; to withdraw a published work from distribution if it no longer represents the views of the author; and to prevent others from using the work or the author's name in such a way as to reflect on the author's professional standing. In addition, Contractor grants **Level Up Labs** the perpetual nonexclusive right to use and license others to use Contractor's name and physical likeness solely in connection with the Services for the purpose of advertising or exploiting Work Product for which the Services were performed. Contractor shall, at any time upon the request of **Level Up Labs**, take all such further actions and execute, acknowledge and deliver all such further documents (including without limitation



assignments of rights) as **Level Up Labs** deems advisable or necessary in order to secure for **Level Up Labs** the exclusive ownership of all rights in the Work Product, by patent, copyright or otherwise. Contractor represents and warrants to **Level Up Labs** that the Work Product shall not infringe or violate the rights of any person or entity or contain any libelous or defamatory matter.

9. None of the Work Product is to be used by Contractor on any other project or in any other capacity except with **Level Up Labs's** prior written consent.

10. Notwithstanding the foregoing, and without limiting any of **Level Up Labs's** rights as stipulated above, any content or IP Rights developed or acquired by Contractor outside the scope of this Agreement that was developed: (a) prior to the Effective Date of this Agreement and (i) were developed for a purpose not contemplated during negotiations of that engagement; and (ii) are not embodied in the final release version of the Project; or (b) concurrent with this engagement, and (i) were developed outside of the scope of services contemplated in this Agreement; (ii) are not similar to or related to Work Product provided by you under this Agreement; and (iii) are not embodied in the commercial release version of a product developed by **Level Up Labs** remains Contractor's property and is not deemed assigned under the terms of this Agreement. Any Work Product, prior work, or concurrent work that is embodied in a product developed by **Level Up Labs** as a consequence of Contractor's Services, however, are assigned or licensed as per Paragraph 8, above.

11. With respect to all ideas, processes, designs, methods and other information (collectively, "Subject Matter") which Contractor discloses to **Level Up Labs** or uses in the performance of the Services, Contractor represents and warrants to **Level Up Labs** that Contractor has the right to make disclosure and use of the Subject Matter without liability or compensation to any other person. Contractor further represents and warrants that all work performed for **Level Up Labs** will be original to Contractor and that Contractor will not breach any agreement or obligation to keep confidential the proprietary information of any former employer or other third party. Contractor represents and covenants that Contractor has not brought to **Level Up Labs**, and will not use in the performance of services for **Level Up Labs**, any confidential information or proprietary material of any former employer or other third party. Contractor also represents that it is not a party to any agreement or obligation with any third party which conflicts with Contractor's obligations under this contract.

12. It is understood and agreed that in performing the Services for **Level Up Labs** hereunder, Contractor shall act in the capacity of an independent contractor and not as an employee or agent of **Level Up Labs**. Contractor shall not represent or hold himself out as the agent or legal representative of **Level Up Labs** for any purpose whatsoever. In performing Services, Contractor shall comply with all applicable laws and regulations, and if and when Contractor performs Services on the premises of **Level Up Labs**, Contractor shall observe the working hours, working rules, and security procedures established by **Level Up Labs**.

13. Contractor shall indemnify **Level Up Labs** and hold it harmless from and against any and all third party claims, losses, liabilities, damages, costs, expenses (including without limitation reasonable attorneys' fees) and royalties arising from any misrepresentation or breach of warranty made by Contractor herein.

14. The liability of **Level Up Labs** under this Agreement shall in no event exceed the aggregate compensation due to Contractor. In

no event shall **Level Up Labs** be liable to Contractor for any special, indirect, incidental or consequential damages, including without limitation damages on account of the loss of present or prospective profits.

15. Any notice under this Agreement shall be in writing and shall be deemed given when delivered personally, sent by overnight courier, faxed with confirmation of receipt or sent by certified mail, return receipt requested, addressed to the receiving party at the address set forth above or at such other address as such party may have given to the other party in accordance with this provision. No right or interest in this Agreement shall be assigned by Contractor, and no delegation of the performance of the Services or other obligations owed by Contractor to **Level Up Labs** shall be made, without the prior written consent of **Level Up Labs** and any purported assignment or delegation without **Level Up Labs's** consent shall be voidable at **Level Up Labs's** option. Any dispute arising under this Agreement shall be subject to and finally settled via binding arbitration in the State of Texas under the rules of the American Arbitration Association located in the State of Texas, USA. There shall be a single arbitrator who shall be chosen by the American Arbitration Association whose decision shall be final and may be entered in any court of competent jurisdiction. This Agreement shall be bound, interpreted and enforceable under the State law of Texas and the Federal Law of the United States. In any dispute brought hereunder the prevailing party shall, subject to the ruling of the arbitrator, be entitled to reasonable and actually incurred fees and costs incurred by it in such dispute from the opposing party. No provision of this Agreement may be amended, altered, modified or waived except by an instrument in writing, specifying such amendment, alteration, modification or waiver, executed by both parties. No delay or omission by **Level Up Labs** in exercising or enforcing any right or remedy under this Agreement shall operate as a waiver thereof or of any other right or remedy, and no waiver of any breach of this Agreement by Contractor shall be deemed a waiver of any subsequent breach. This Agreement constitutes and contains the entire agreement between the parties with respect to the subject matter hereof and supersedes any prior oral or written agreements between them. This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, executors, administrators, successors and permitted assigns. If and to the extent that the terms of any Schedule hereto are inconsistent with the terms and conditions of the main text of this Agreement, the terms and conditions of the main text shall supersede the terms and conditions of such Schedule.

Agreed to and Accepted:

**Contractor**

By: *Noung*

Print Name: Aleksandr Khokhlov

Date: 27 of October 2016

**Level Up Labs, LLC**

By: *Lars A. Doucet*

Print Name: Lars A. Doucet

Date: 27 of October 2016



### Schedule A - Services

Contractor will serve as an open-source engine programmer, creating, editing, and modifying source code for the various HaxeFlixel open-source libraries, represented by the online repositories below:

Core: <http://github.com/haxeflixel/flixel>  
Addons: <http://github.com/haxeflixel/flixel-addons>  
Demos: <http://github.com/haxeflixel/flixel-demos>  
UI: <http://github.com/haxeflixel/flixel-ui>

Any work done outside of these specific repositories will be considered outside the scope of this agreement, unless both parties agree otherwise by mutual written consent.

It is the intention of Level Up Labs, LLC, to sponsor HaxeFlixel's development by releasing code created under the scope of this contract as open-source. Therefore, any and all of Contractor's contributions to the HaxeFlixel open-source libraries done under the scope of this agreement shall be licensed by Level Up Labs, LLC under the MIT license provided on Schedule C, and published by Level Up Labs, LLC on publically available online code repositories, including but not limited to those listed above. These contributions shall be so licensed and published no later than 5 days after their authoring.

Contractor will also answer questions, assist with testing code, write and edit documentation, and other services befitting his duty.



### Schedule B – Deliverables/Payment Schedule

As full and complete compensation for the Services, Level Up Labs, LLC will pay Contractor as follows:

\$6,000.00 USD, in four installments of \$1,500.00 USD.

This is to be invoiced every 3 months from the start of the project, or on whatever amended timetable Level Up Labs, LLC and Contractor agree by mutual written consent, whichever comes first.

In the unlikely event that this contract is terminated before completion, the total amount owed to Contractor shall be a pro-rated amount of \$6,000.00 USD, proportional to the original planned duration of the project (August 1, 2016 – August 1, 2017). For example, if the contract is terminated exactly halfway through, the total amount owed shall be \$3,000.00 USD, if terminated 25% of the way through, the total amount owed shall be \$1,500.00 USD. Since the \$6,000.00 for this project was raised in a community fundraiser, in the event of any premature termination, Level Up Labs, LLC agrees to spend any remaining amount of the original \$6,000.00 by contracting a different contractor under the same basic terms as this contract.

The estimated completion date for the project is August 1, 2017.



### Schedule C – MIT License Text

The exact text for the "MIT License" specified in Schedule A is below:

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**The MIT License (MIT)**

Copyright (c) 2009 Adam 'Atomic' Saltsman  
Copyright (c) 2012 Matt Tuttle  
Copyright (c) 2013 HaxeFlixel Team  
Copyright (c) 2016 Level Up Labs, LLC

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The above copyright notice and this permission notice shall be included in all copies or substantial portions of the Software.

THE SOFTWARE IS PROVIDED "AS IS", WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. IN NO EVENT SHALL THE AUTHORS OR COPYRIGHT HOLDERS BE LIABLE FOR ANY CLAIM, DAMAGES OR OTHER LIABILITY, WHETHER IN AN ACTION OF CONTRACT, TORT OR OTHERWISE, ARISING FROM, OUT OF OR IN CONNECTION WITH THE SOFTWARE OR THE USE OR OTHER DEALINGS IN THE SOFTWARE.