Proposal & Quotation

Rocket Propelled Sled for Gift Distribution

Quotation #   C123456
Issue date   May 35, 2157
Valid till   June 37, 2157

Customer
Claus Workshop, Inc. Attn: Mr. Director Elf
1234 Snowy Street
North Pole, ON H0H 0H0, Canada

Contact

Suvojit Ghosh, PhD – Chief Executive Officer, FYELABS Incorporated
175 Longwood Rd S, McMaster Innovation Park Suite 401A, Hamilton ON L8P 0A1, Canada
suvojit@fyelabs.com | 289.659.5919

WEB   **www.fyelabs.com**
EMAIL   **hey@fyelabs.com,**
PHONE   **289.659.5919**

CONTENTS

1   CONTEXT

Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed do eiusmod tempor incididunt ut labore et dolore magna aliqua. Ut enim ad minim veniam, quis nostrud exercitation ullamco laboris nisi ut aliquip ex ea commodo consequat. Duis aute irure dolor in reprehenderit in voluptate velit esse cillum dolore eu fugiat nulla pariatur. Excepteur sint occaecat cupidatat non proident, sunt in culpa qui officia deserunt mollit anim id est laborum.

Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed do eiusmod tempor incididunt ut labore et dolore magna aliqua. Ut enim ad minim veniam, quis nostrud exercitation ullamco laboris nisi ut aliquip ex ea commodo consequat. Duis aute irure dolor in reprehenderit in voluptate velit esse cillum dolore eu fugiat nulla pariatur. Excepteur sint occaecat cupidatat non proident, sunt in culpa qui officia deserunt mollit anim id est laborum.

Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed do eiusmod tempor incididunt ut labore et dolore magna aliqua. Ut enim ad minim veniam, quis nostrud exercitation ullamco laboris nisi ut aliquip ex ea commodo consequat. Duis aute irure dolor in reprehenderit in voluptate velit esse cillum dolore eu fugiat nulla pariatur. Excepteur sint occaecat cupidatat non proident, sunt in culpa qui officia deserunt mollit anim id est laborum.

2   CONCEPTUAL DESIGN

Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed do eiusmod tempor incididunt ut labore et dolore magna aliqua. Ut enim ad minim veniam, quis nostrud exercitation ullamco laboris nisi ut aliquip ex ea commodo consequat. Duis aute irure dolor in reprehenderit in voluptate velit esse cillum dolore eu fugiat nulla pariatur. Excepteur sint occaecat cupidatat non proident, sunt in culpa qui officia deserunt mollit anim id est laborum.

Figure 1: Conceptual design of sled

3   DELIVERABLES

FYELABS' main deliverables are:

1. 1 × prototype of a sled, consisting of
    − Rocket propulsion system
    − GPS navigation and tracking
    − Self-driving system
    − Control system, including software, hardware, networking, and touch-screen display for controls
2. Documentation for mass-production of the system, including
    − CAD files/shop drawings
    − PCB designs
    − Bill of materials
    − Software architecture
    − Single line diagrams
    − Assembly manual
3. Documentation for use of sled system, to include
    − User's manual, including maintenance and troubleshooting
    − Installation/Commissioning manual
    − Technical specifications
4. Test results, demonstrating
    − Speed
    − Flight dynamics

4 SCOPE OF WORK

The detailed scope of work, the tasks involved, and associated resources necessary for phase 1 are provided below.

4.1 Requirement finalization

As a first step, we will finalize the Customer's requirements to ensure the design will all intended requirements.

Resources required.
PRE – 1/2 week @8hrs/week – 4hrs
Dev/Tech – 1/2 week @40hrs/week – 20hrs

Note: The paragraphs in blue, as it appears above and with the label *Resources required*, will appear throughout the Scope of Work descriptions in our proposal. They are intended to provide an estimate of the amount of effort required by FYELABS personnel to deliver the work. They are used in later sections to arrive at the price quoted for the project, and to develop the overall schedule. We have two different tiers of resources, PRE, and Dev/Tech, with different costs associated with their involvement. PRE stands for Principal Research Engineer, who acts as the technical lead and project manager, the single point of contact for the Customer, and supervises the remainder of the team. They are senior and experienced product development specialists. Dev/Tech stands for Developer or Technologist, who are the remainder of the personnel that will make up the team delivering this project. They report to the PRE in the course of this project.

4.2 Structural design

Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed do eiusmod tempor incididunt ut labore et dolore magna aliqua. Ut enim ad minim veniam, quis nostrud exercitation ullamco laboris nisi ut aliquip ex ea commodo consequat. Duis aute irure dolor in reprehenderit in voluptate velit esse cillum dolore eu fugiat nulla pariatur. Excepteur sint occaecat cupidatat non proident, sunt in culpa qui officia deserunt mollit anim id est laborum.

Resources required.
PRE – 1 weeks @ 8hrs/week – 8 hrs
Dev/Tech – 1 week @ 40hrs/week – 40hrs

4.3 Aerodynamics evaluation

Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed do eiusmod tempor incididunt ut labore et dolore magna aliqua. Ut enim ad minim veniam, quis nostrud exercitation ullamco laboris nisi ut aliquip ex ea commodo consequat. Duis aute irure dolor in reprehenderit in voluptate velit esse cillum dolore eu fugiat nulla pariatur. Excepteur sint occaecat cupidatat non proident, sunt in culpa qui officia deserunt mollit anim id est laborum.

Resources required.

PRE – 2 weeks @ 4hrs/week – 8 hrs
Dev/Tech – 2 week @ 20hrs/week – 40hrs

4.4   Rocket propulsion system design

Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed do eiusmod tempor incididunt ut labore et dolore magna aliqua. Ut enim ad minim veniam, quis nostrud exercitation ullamco laboris nisi ut aliquip ex ea commodo consequat. Duis aute irure dolor in reprehenderit in voluptate velit esse cillum dolore eu fugiat nulla pariatur. Excepteur sint occaecat cupidatat non proident, sunt in culpa qui officia deserunt mollit anim id est laborum.

Resources required.
PRE – 2 weeks @ 4hrs/week – 8 hrs
Dev/Tech – 2 week @ 40hrs/week – 40hrs

4.5   Control system design

Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed do eiusmod tempor incididunt ut labore et dolore magna aliqua. Ut enim ad minim veniam, quis nostrud exercitation ullamco laboris nisi ut aliquip ex ea commodo consequat. Duis aute irure dolor in reprehenderit in voluptate velit esse cillum dolore eu fugiat nulla pariatur. Excepteur sint occaecat cupidatat non proident, sunt in culpa qui officia deserunt mollit anim id est laborum.

Resources required.
PRE – 2 weeks @ 4hrs/week – 8 hrs
Dev/Tech – 2 weeks @20hrs/week – 40hrs

4.6   Procurement

At this stage the various components of the BoM will be ordered, tracked and managed.

Note: This task is expected to take 3 weeks due to procurement lead time. However, the effort required is for 1 week only. Thus, while the schedule for this task shows 3 weeks, the fees are based on one week of effort.

Resources required
PRE – 1 week @ 8hrs/week – 8hrs
Dev/Tech – 1 week @ 40hrs/week – 40hrs

4.7   Vehicle assembly

Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed do eiusmod tempor incididunt ut labore et dolore magna aliqua. Ut enim ad minim veniam, quis nostrud exercitation ullamco laboris nisi ut aliquip ex ea commodo consequat. Duis aute irure dolor in reprehenderit in

voluptate velit esse cillum dolore eu fugiat nulla pariatur. Excepteur sint occaecat cupidatat non proident, sunt in culpa qui officia deserunt mollit anim id est laborum.

Resources required
PRE – 3 week @ 8hrs/week – 24hrs
Dev/Tech – 3 week @ 40hrs/week – 120hrs

4.8   Control system development and assembly

Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed do eiusmod tempor incididunt ut labore et dolore magna aliqua. Ut enim ad minim veniam, quis nostrud exercitation ullamco laboris nisi ut aliquip ex ea commodo consequat. Duis aute irure dolor in reprehenderit in voluptate velit esse cillum dolore eu fugiat nulla pariatur. Excepteur sint occaecat cupidatat non proident, sunt in culpa qui officia deserunt mollit anim id est laborum.

Resources required
PRE – 3 weeks @ 4hrs/week – 12hrs
Dev/Tech – 3 weeks @ 20hrs/week – 60hrs

4.9   Testing and compilation of documents

Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed do eiusmod tempor incididunt ut labore et dolore magna aliqua. Ut enim ad minim veniam, quis nostrud exercitation ullamco laboris nisi ut aliquip ex ea commodo consequat. Duis aute irure dolor in reprehenderit in voluptate velit esse cillum dolore eu fugiat nulla pariatur. Excepteur sint occaecat cupidatat non proident, sunt in culpa qui officia deserunt mollit anim id est laborum.

Resources required
PRE – 2 week @8hrs/week – 16hrs
Dev/Tech – 2 week @40hrs/week – 80hrs

4.10   Meetings & Consultation

The project is expected to last 10 weeks. We will have 2 meetings at the requirement finalization stage and 9 more meeting after that (one hour every week) with the Customer to provide them with an update of progress, discuss next steps, discuss deviations if any, and seek approvals for such.

Resources required
PRE – 12 hrs.
DEV/Tech - 12 hours

5 FEES

The fees below are calculated based on the work described above. The total cost will change if there is a revision in scope. Taxes are extra, as applicable. Payments are to be made as per terms laid out in this document.

SI #	Section #	Short Description	PRE Time	Dev/Tech Time (Hrs)	Line item cost
		Itemized Estimate			
1	4.1	Requirement Finalization	4	20	$ 2,600.00
2	4.2	Structural Design	8	40	$ 5,200.00
3	4.3	Aerodynamics Evaluation	8	40	$ 5,200.00
4	4.4	Rocket Propulsion System Design	8	40	$ 5,200.00
4	4.5	Control System Design	8	40	$ 5,200.00
5	4.6	Procurement	8	40	$ 5,200.00
6	4.7	Vehicle Assembly	24	120	$ 15,600.00
7	4.8	Control System Development and Assembly	12	60	$ 7,800.00
8	4.9	Testing and Compilation of Documents	16	80	$ 10,400.00
8	4.10	Meetings & Consultation	12	12	$ 3,000.00
		TOTAL	108	492	

	Item	y (Hrs/Uni	Rate (CAD/hr)	Line Total
	Quoted Fees			
1	Principal Research Engineer	108	$ 150.00	$ 16,200.00
2	Dev/Tech	492	$ 100.00	$ 49,200.00
3	Proj Admin @ 10% Labour	1	$ 6,540.00	$ 6,540.00
4	Startup Fee (Proj < $50,000)	0	$ 2,000.00	$ -
	TOTAL (CAD)			$ 71,940.00

Note: The quoted fees do not include the cost of materials and any other out of pocket expenses. Such costs will be incurred by FYELABS and passed on to the Customer in the final invoice. We anticipate a cost of ~$17,000 as indicated below.

Standard rate tariff for FYELABS resources is provided below.

Fees Tariff

Resource Type	CAD/hr	USD/hr
Principal Research Engineer	150	125
Developer	100	85
Technologist	100	85

- Out of pocket expenses, e.g., materials and travel, will be invoiced *at cost.*
- Project administration fee @ 10% of labour costs will be added.
- Project startup fee of CAD 2,000/USD 1,600 is applicable if total project value less than CAD 50,000
- Taxes and fees are extra as applicable.

6 SCHEDULE

The schedule below is developed on a *best effort* basis. The parties understand that it may change within reason, and especially for reasons beyond the control of the Customer or the Provider. Work will commence within 2 weeks of receipt of the *due on signing* portion of the fees, and the project is anticipated to last 12 weeks thereafter.
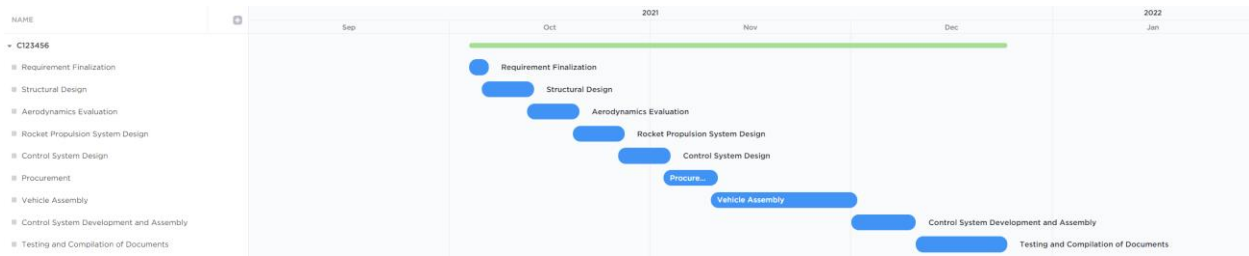
7   RETAINER SERVICES

We recognize that there might be additional work required, but not captured by the scope of work herein, such that the Customer can fully utilize the work delivered by FYELABS. Thus, we offer the option for continued engagement beyond work captured in the scope above. This is provided at a fixed rate of CAD 2,000 per month or USD 1,600, and will cover.

- Responses to questions by email or telephone within 1 business day
- In person meetings
- Limited additional development, training, documentation, or other activities not exceeding 10 hrs of effort in any calendar month

Any additional work will require the development of a new proposal.

This is an optional offering – please contact us to add this to your services.

[*The rest of this page has been intentionally left blank*]

8 SERVICES AGREEMENT

THIS AGREEMENT made as of the date this Agreement is executed by the Customer ("Effective Date") between:

FYELABS INCORPORATED. (the "Provider")			
Address	175 Longwood Rd S, Suite 401A, Hamilton ON L8P 0A1		
Telephone	289.659.5919		
Primary Contact			
Name	Suvojit Ghosh	Email	suvojit@fyelabs.com
Title	Chief Executive Officer	Phone	289.659.5919

- AND -

CLAUS WORKSHOP INC. ("Customer")			
Address:			
Telephone			
E-mail			
For Corporations (if applicable):			
Jurisdiction Incorporated Under	North Pole		
Primary Contact:			
Name		E-mail	
Title		Phone	

WHEREAS the Customer wishes to procure the services of the Provider and the Provider wishes to provide such services on the terms and conditions set out in this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the respective covenants and agreements of the parties contained herein, and other goods and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **SERVICES TERMS AND CONDITIONS**

The parties hereby agree that this Agreement is subject to the terms and conditions contained in the Service Terms and Conditions attached as Schedule "A" to this Agreement ("Terms").

Capitalized terms not defined herein have the meaning ascribed to them in the Terms.

2. **DESCRIPTION OF DELIVERABLES AND ASSOCIATED FEES BREAKDOWN**

[***The rest of this page has been intentionally left blank***]

SI #	Section #	Short Description	PRE Time	Dev/Tech Time (Hrs)	Line item cost
		Itemized Estimate			
1	4.1	Requirement Finalization	4	20	$ 2,600.00
2	4.2	Structural Design	8	40	$ 5,200.00
3	4.3	Aerodynamics Evaluation	8	40	$ 5,200.00
4	4.4	Rocket Propulsion System Design	8	40	$ 5,200.00
4	4.5	Control System Design	8	40	$ 5,200.00
5	4.6	Procurement	8	40	$ 5,200.00
6	4.7	Vehicle Assembly	24	120	$ 15,600.00
7	4.8	Control System Development and Assembly	12	60	$ 7,800.00
8	4.9	Testing and Compilation of Documents	16	80	$ 10,400.00
8	4.10	Meetings & Consultation	12	12	$ 3,000.00
		TOTAL	108	492	

	Item	Qty (Hrs/Unit)	Rate (CAD/hr)	Line Total
	Quoted Fees			
1	Principal Research Engineer	108	$ 150.00	$ 16,200.00
2	Dev/Tech	492	$ 100.00	$ 49,200.00
3	Proj Admin @ 10% Labour	1	$ 6,540.00	$ 6,540.00
4	Startup Fee (Proj < $50,000)	0	$ 2,000.00	$ -
	TOTAL (CAD)			$ 71,940.00

Note: The quoted fees do not include the cost of materials and any other out of pocket expenses. Such costs will be incurred by FYELABS, and passed on to the Customer in the final invoice.

3. ACCEPTANCE

The Customer shall have a period of 60 days after delivery to review and accept the Deliverables completed during the applicable stage. Within this period of time, the Customer shall either accept the Deliverables or deliver to the Provider a detailed written statement of deficiencies to be corrected prior to the Customer's acceptance of the Deliverables. Within a reasonable amount of time after receipt of such statement of deficiencies, the Provider will redeliver corrected Deliverables. Following the redelivery, the Customer shall provide a written acceptance or a written statement of deficiencies within 30 days of receipt of the Deliverables.

4. CUSTOMER MATERIALS

The Customer shall provide the Provider with following Customer Materials by the date as indicated below:
− *To be communicated during kick-off meeting, and on an ongoing basis.*

5. PRE-EXISTING, OPEN SOURCE AND THIRD PARTY MATERIALS TO BE USED

As of the Effective Date, Provider has identified that the following pre-existing, third-party and open source software, which may be amended by the Provider from time to time, shall be included in the Deliverables and shall be subject to the applicable license terms identified. Notwithstanding the foregoing, if the Customer is required to pay any additional license fees as a result of the Provider changing the following list of pre-existing, third-party and open source software, the parties may agree to such amendment upon confirmation in writing.

#	Pre-Existing, Third Party and Open Source Software	Applicable License Terms
	N/A	

6. FEES, PAYMENT TERMS

(a) *Fees* - In consideration for the Services rendered and pursuant to this Service Agreement and the Terms, the Customer agrees to pay to the Provider the amount of **CAD $71,665** in accordance with the following payment schedule:

Stage	Applicable Fees Per Stage	Payment Terms
Signing of THIS AGREEMENT	50% of quoted fees	Due on receipt
Completion of all DELIVERABLES	50% of quoted fees + Cost of materials and other out-of-pocket expenses	30 days

(b) *Payments* - The Provider shall invoice the Customer for the applicable fees in accordance with the Payment Terms referred above

7. TERM OF AGREEMENT

Term: May 35, 2157 – December 24, 2157

The term of this Agreement shall begin on the Effective Date or the one specified above, whichever is later, and shall continue for the term outlined above ("**Term**"), unless sooner terminated pursuant to the Terms or modified by mutual consent.

8. ADDITIONAL SPECIAL TERMS

Not applicable

[*The rest of this page has been intentionally left blank*]
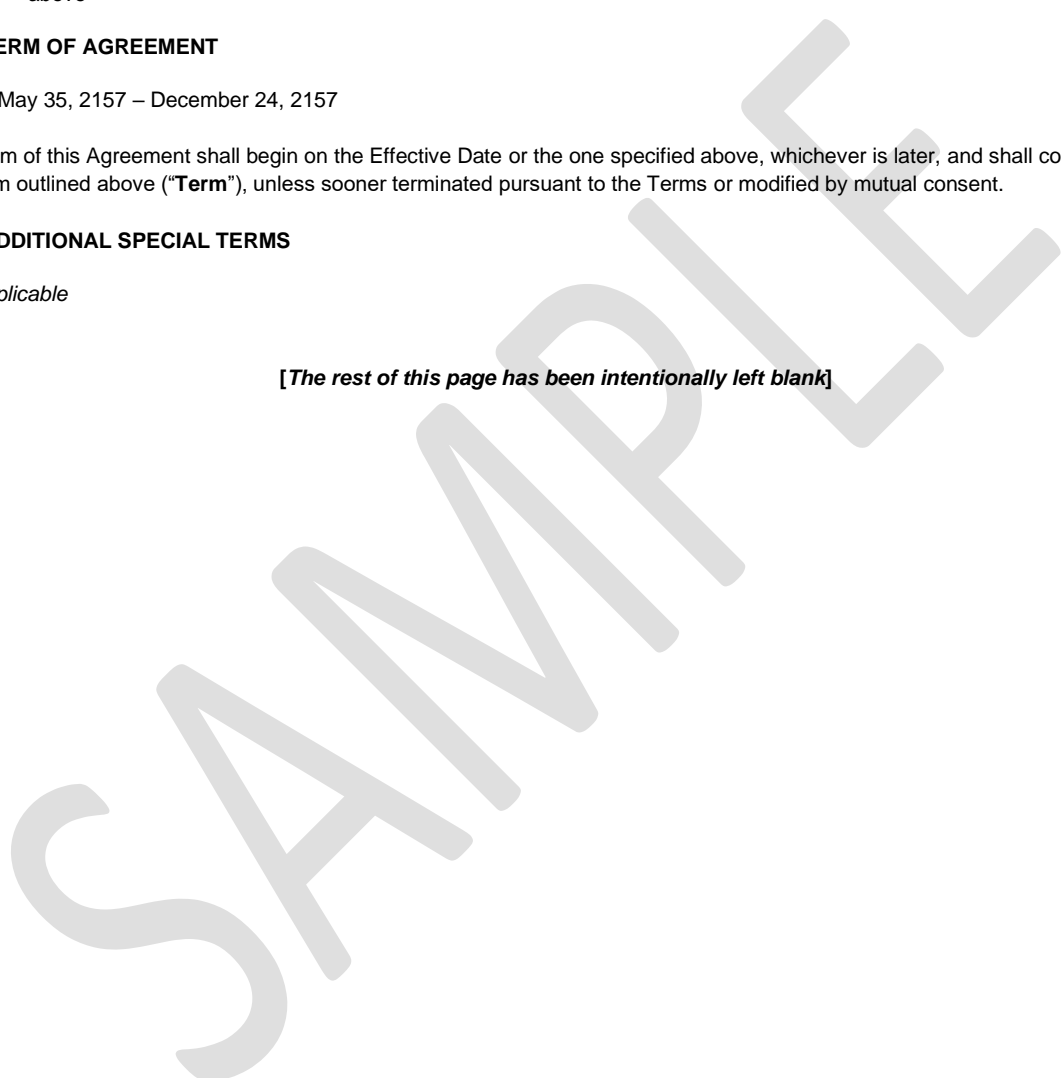
[*Signing page for Services Agreement*]

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the Effective Date.

FYELABS INCORPORATED

By:

Name: Suvojit Ghosh
Title: Chief Executive Officer

I have the authority to bind the Corporation.

Date Executed:

CLAUS WORKSHOP INC

By:

Name: Santa Claus
Title: Chief Executive Elf

I have the authority to bind the Corporation.

Date Executed:

FYELABS
INNOVATION AS A SERVICE

SCHEDULE "A" – SERVICE AGREEMENT TERMS & CONDITIONS

These Services Terms and Conditions ("Terms" or this "Agreement") govern the purchase of services by the customer ("you", "your", "Customer" and terms of similar meaning) from **FyeLabs Incorporated** ("we", "us", "Provider" and terms of similar meaning) made pursuant to a submitted services agreement ("**Services Agreement**").

The Services Agreement is automatically deemed to include all of the terms and conditions of these Terms; provided that whenever the provisions of the Services Agreement expressly conflict with these Terms, the conflicting provisions of the Services Agreement control and shall take precedence over the conflicting provisions of these Terms, but only where the Services Agreement states that it is intending to supersede these Terms for that provision.

ARTICLE 1
DEFINITIONS

1.1 **APPLICABLE LAW** means all applicable requirements, laws, statutes, codes, acts, ordinances, orders, decrees, injunctions, by-laws, rules, regulations, permits, licenses, authorizations, directions and agreements with all applicable government authorities, agencies, bodies or departments, having jurisdiction over this Agreement or the supply or use of the Services or Deliverables.

1.2 **CONFIDENTIAL INFORMATION** has the meaning set out in Section 4.1.

1.3 **CUSTOMER MATERIALS** means: (a) all materials, including all Customer logos, product descriptions, images, audio or video recordings, documentation, reports, specifications, technical information, and technologies, recorded in any form and on any media, that are proprietary to Customer and provided to Provider to enable Provider to perform the Services; and (b) all materials described in the Services Agreement as licensed by the Customer or remaining the property of Customer.

1.4 **DELIVERABLES** means all Work Product that Provider is required under the Services Agreement to deliver to Customer as part of the Services.

1.5 **DELIVERY SCHEDULE** means the date(s) specified in the Services Agreement for performance of the Services, completion of Deliverables and/or other milestones, if any.

1.6 **FEES** means the fees to be paid by Customer pursuant to this Agreement.

1.7 **INTELLECTUAL PROPERTY RIGHTS** means any intellectual or industrial property rights protected or protectable under the laws of Canada or any foreign country, whether by including any intellectual property rights protected by legislation (such as legislation governing copyrights, industrial designs, integrated circuit topographies, patents or trademarks) or by common law (such as confidential information and trade secrets).

1.8 **PARTY** means a Party to this Agreement.

1.9 **SERVICES** means the services to be provided by Provider to Customer as described in a Services Agreement or these Terms and any additional services authorized by Customer that Provider agrees to perform or is required to perform hereunder.

1.10 **WORK PRODUCT** means all software (including object and source code), computer system designs, web designs and applications, documentation, inventions (whether or not patentable or reduced to practice), hardware (including prototypes, circuit designs and mechanical designs), developments or like materials, trade secrets, print material, data, processes, methods, improvements or enhancements that Provider makes, conceives, or devises, either solely or jointly with Customer, in the course of Services performed under the Services Agreement or any Schedule. WORK PRODUCT SPECIFICALLY EXCLUDES PROVIDER TOOLS OR ANY PRE-EXISTING, THIRD PARTY OR OPEN SOURCE MATERIAL OR SOFTWARE.

ARTICLE 2
SERVICES

2.1 *Services.* Provider shall in all material respects perform the Services in accordance with these Terms and the applicable Services Agreement, and in a timely, diligent and professional manner.

2.2 *Work Schedule.* Unless they are expressly described as firm deadlines, in which case Provider's obligation shall be to meet such dates, any schedules, deadlines or timeframes set forth in a Service Agreement represent estimates that Provider shall use its reasonable commercial efforts to achieve. The timely and effective completion of the Services requires the successful co-operation of the Parties and the timely performance by each of them of their obligations hereunder, including delivery by Customer to Provider of information and materials and the timely performance by Customer of the various activities, in each case either expressly or implicitly described in a Service Agreement. The achievement of any schedules, deadlines or timeframes set forth in any Service Agreement is dependent upon such delivery and performance by Customer, and Provider shall not be liable for any delay or cost or expense caused as a result thereof.

2.3 *Customer Materials.* Customer hereby grants to Provider a non-exclusive, royalty-free, non-transferable, limited right to use (during the term of the applicable Service Agreement) any Customer Materials provided to Provider solely to perform Services pursuant to the Service Agreement.

2.4 *Acceptance.* Where a Service Agreement contemplates the development of Deliverables, Customer shall have a period to review and accept the completed Deliverables (such period to be as specified in the applicable Service Agreement, or a reasonable period if no period is specified) and Provider shall have a period to remedy any deficiencies identified by Customer (such period to be as specified in the applicable Service Agreement, or a reasonable period if no period is specified). Customer shall provide Provider prompt notice of any deficiencies identified by Customer. If Customer does not give written notice of any deficiencies within such period, it shall be deemed to have accepted the Deliverables.

ARTICLE 3
PRICE AND PAYMENTS

3.1 *Invoices and Payments.* The Provider shall invoice Customer for the Services to be provided under a Service Agreement in accordance with the applicable Service Agreement, and Customer shall pay such invoices on such time as is specified in a Service Agreement. Taxes shall be identified and shown as separate items on each invoice. Late payments are subject to interest in the amount of 1.5% per month on overdue amounts and interest thereon.

3.2 *Expenses*. Customer shall be responsible for paying for all expenses related to the Services which are incurred by the Provider while performing its obligations with respect to a Service Agreement, if such expenses have been pre-approved by the Customer. Customer shall pay such expenses after Customer receives an invoice therefor.

3.3 *Taxes*. Customer is responsible for all sales, use, consumption, value added, goods and services and similar taxes which are based upon its acquisition or use of the Services to be provided under this Agreement.

ARTICLE 4
CONFIDENTIALITY

4.1 *Definition*. As used in this Agreement, "Confidential Information" of a Party means secret or confidential information which is not generally known to the public and may include, but is not limited to: (a) Work Product, computer software, know-how, technical data, research, products, business or financial information, plans or strategies, inventions (whether or not patentable or reduced to practice), hardware (including prototypes, circuit designs and mechanical designs), business practices, operations, procedures, information respecting the customers, of such Party or of its representatives; (b) information which due to its nature, or the circumstances surrounding its communication, would be reasonably interpreted as constituting confidential information, including the terms and conditions of this Agreement; and (c) any other information of any nature, and in any form, received from or belonging to such Party which is marked or identified as confidential. Confidential Information does not include any of the foregoing items to the extent that the same have become publicly known or made generally available through no wrongful act of the disclosing party.

4.2 *Non-disclosure*. Each Party agrees to use the Confidential Information of the other Party solely for the purpose of performing its obligations or exercising its rights under this Agreement, and will disclose such Confidential Information only to those of its own employees, representatives, agents and contractors who have a need to know the information in connection therewith, and who are under an enforceable legal obligation to keep same confidential and subject to comparable restrictions as apply to the receiving Party under this Agreement, and shall take appropriate action to ensure their compliance with such obligation.

4.3 *Equitable Relief*. It is hereby agreed that upon any breach, or threatened breach, by the other Party relating to the Confidential Information, the non-breaching Party wishing to protect its Confidential Information will be entitled to seek and obtain equitable relief, including injunctive relief and specific performance, or any other relief as may be granted by any court, without the necessity of proving actual damages or posting of security or a bond.

4.4 *Indemnity*. Each Party agrees to indemnify and hold the other Party harmless from and against all loss or damage or any kind and nature suffered by the other Party as a result of any breach by it or its representatives of its obligations relating to confidentiality contained in this Article.

4.5 *Publicity and Promotion*. Upon execution of this Agreement, the Provider shall be permitted to disclose that the Customer is a client of the Provider, but the specific terms of this Agreement shall remain confidential. If not expressly objected to by the Customer in writing, the Provider shall be entitled to use the Customer's business name and logo on the Provider's website or in future presentations to identify the Customer as a client of the Provider.

ARTICLE 5
OWNERSHIP, DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY

5.1 *Customer Ownership of Work Product and Intellectual Property*. Unless otherwise provided in the applicable Service Agreement, upon payment of all fees, Customer shall own all Deliverables and all right, title and interest, including, without limitation, all copyright, patent rights, trade secret rights, trademarks and any other proprietary right or interest, therein. Provider shall execute and deliver such instruments and take such other steps as may be requested by Customer from time to time in order to give effect to the provisions of this Article.

5.2 *Provider Ownership of Pre-Existing Software*. Unless otherwise provided in the applicable Service Agreement, (a) Provider or its licensors, as applicable, shall own all pre-existing software and all right, title and interest, including, without limitation, all copyright, patent rights, trade secret rights, trademarks and any other proprietary right or interest, therein. Subject to the provisions of and to any further limitations or restrictions contained in the applicable Service Agreement, and to payment by Customer for the respective Services, Provider hereby grants to Customer a non-exclusive, non-sublicensable (other than the right to sublicense such uses to Customer's publisher, web hosting or Internet service providers), royalty-free license to use the pre-existing software (that are owned or licensed by the Provider) solely as specified in the applicable Service Agreement.

5.3 *Pre-Existing, Third Party or Open-Source Material or Software*. If applicable, the Service Agreement shall include a sufficient description of any known (a) pre-existing, third party or open-source material, software or intellectual property that is to be included in the Work Product or Deliverables; (b) any applicable license terms to such pre-existing, third party or open-source material, software or intellectual property; and (c) the responsibility for payment of such licenses as between the Parties. The Provider shall advise the Customer of an intent or desire to include any additional pre-existing, third party or open-source material, software or intellectual property that was not known prior to the execution of such Service Agreement.

5.4 *Provider's Representations*. Provider warrants that it shall perform the Services: (a) in accordance with the Terms and subject to the conditions set out in the respective Services Agreement; (b) using personnel of commercially reasonable skill, experience, and qualifications; (c) in a timely, workmanlike and professional manner in accordance with generally recognized industry standards for similar services; and (d) to the best of the Provider's knowledge, the Deliverables specified by the Provider and used by the Customer, in accordance with these Terms and the Services Agreement, will not infringe, misappropriate or otherwise violate any Intellectual Property Rights of any third parties.

5.5 *Disclaimer*. Except as provided herein, the Services and any Deliverables are provided to the Customer without warranties from the Provider of any kind, either express or implied. Except as provided in the Terms or in the Services Agreement, the Provider expressly disclaims all warranties, express or implied, including, without limitation, implied warranties of merchantability, fitness for a particular purpose, title and non-infringement. The Provider does not represent or warrant that the Services or any Deliverables will be accurate, complete, reliable, current or error-free, and expressly disclaims any warranty or representation as to the accuracy or proprietary character of the Services or any Deliverable. Further the Provider expressly disclaims that the operation of Deliverables that contain software ("**Software Deliverables**") will not be interrupted by reason of defect therein or by reason of the fault of the Provider hereunder or that the Software Deliverable will meet the requirements of the Customer or any end-user. The Customer also acknowledges that the Internet is not a secure medium, may

inherently be unreliable and subject to interruption or disruption and may be subject to inadvertent or deliberate breaches of the Customer's security.

5.6 *No Indirect, Etc. Damages.* Under no circumstances shall Provider be liable to Customer for any claim for (i) indirect, special or consequential damages, (ii) compensation for loss of profits, anticipated revenue, savings or goodwill, or other economic loss of Customer, (iii) exemplary, aggravated or punitive damages howsoever incurred, (iv) contribution or set-off in respect of any claims against Customer, (v) any damages whatsoever relating to third party products or services or Customer's materials, (vi) any damages whatsoever relating to interruption, delays, errors or omissions or (vii) any loss or disclosure of data or funds contained in, dispensed by or associated with any Deliverable; in each case under any theory of law or equity, arising out of or in any way related to these Terns or Deliverables or any Services, even if advised of the possibility thereof.

5.7 *Limitation of Aggregate Liability.* Except as otherwise specifically provided under this Agreement, Provider's liability to Customer for any claim, demand or cause of action whether based on contract, tort (including negligence) or otherwise, or for any losses, damages, costs and expense (including but not limited to legal fees) (collectively, "Losses") arising out of or resulting from this Agreement shall not exceed an amount equal to the Fees paid by the Customer in the six (6) months prior to the claim being made.

5.8 *Limitations Reasonable.* Customer agrees that the limitations of liability set out in this Article are fair and reasonable in the commercial circumstances of this Agreement. This Article shall apply even in the event of a breach of condition, a breach of an essential or fundamental term, or an essential or fundamental breach of this Agreement.

ARTICLE 6
TERMINATION

6.1 *Insolvency.* Subject to the terms of the Service Agreement, either Party may immediately upon written notice terminate the Service Agreement in the event the other Party (i) suspends or ceases conducting business in the normal course, (ii) becomes insolvent, (iii) makes a general assignment for the benefit of creditors, (iv) suffers or permits the appointment of a receiver, receiver and manager, or interim receiver, for its business or assets, (v) avails itself of, or becomes subject to, any proceedings under any other statute of any federal government, province or state relating to bankruptcy, insolvency, reorganization, moratorium, arrangement of debt or the protection of rights of creditors, or (vi) makes any proposal, arrangement or compromise with its creditors under applicable bankruptcy or insolvency legislation.

6.2 *Breach.* Subject to the terms of the Service Agreement, either Party may immediately upon written notice terminate the Service Agreement in the event the other Party fails in any material respect to perform its obligations under the Service Agreement or these Terms and the failure continues for a period of ten (10) days after the other Party receives written notice of the failure. If the breach is corrected within the applicable notice period, the Service Agreement and these Terms continues in full force and effect, without limitation of any right to damages resulting from the breach.

6.3 *Abandonment.* If a Customer fails to respond to communications from the Provider after three (3) attempts, spanning ten (10) business days, the Provider may terminate the Service Agreement and the Services upon providing five (5) days written notice to the Customer after the last communication attempt from the Provider.

6.4 *Termination for Convenience.* Subject to the terms of the applicable Service Agreement, in addition to its other termination rights in the Agreement, the Customer may terminate the Service Agreement and the Services for any reason by giving ten (10) business days (the "**Notice Period**") written notice to the Provider.

6.5 *Early Termination.* If this Agreement is terminated by (a) the Customer for any reason other than pursuant to paragraphs 6.1 or 6.2; or (b) the Provider pursuant to paragraphs 6.1, 6.2 or 6.3, the Customer shall pay to the Provider, as liquidated damages and not as a penalty, an amount equal to the fees that would have been charged during the Notice Period.

6.6 *Payment Upon Termination.* Upon termination of the Service Agreement for any reason, the Customer shall pay any fees for Services that are outstanding. If necessary, the Provider, in its sole discretion, shall pro rate the value of the Services and invoice the Customer on the basis of the percentage of the Services outlined in the applicable Service Agreement that have been completed.

6.7 *Other Termination Obligations.* In addition, each Party shall promptly deliver to the other all papers, databases, documents, software programs, and other tangible items (including all copies) constituting the other Party's Confidential Information in its possession or under its control, or on request destroy such materials and certify that it has done so. The obligations under Article 4 (Confidentiality) shall survive termination or expiry of this Agreement for a period of two (2) years.

ARTICLE 7
GENERAL

7.1 *Force Majeure.* Except as expressly provided otherwise in this Agreement, dates and times by which Customer or Provider is required to perform under these Terms or a Service Agreement (except for any payment obligation) will be postponed automatically to the extent and for the period of time that Customer or Provider, as the case may be, is prevented by causes outside of its reasonable control from meeting such dates and times by reason of any cause beyond its reasonable control (provided that a lack of financial resources shall not constitute an event beyond the reasonable control of a Party). The following events are deemed to be outside of a Party's reasonable control: acts of God, acts of government, acts of war, civil or military unrest, acts of public enemies, proclamations by government or international authorities, such as the declaration of a national or regional state of emergency, pandemic, epidemic or disaster, riots, fire, unavailability of communications or electrical power service provided by third parties, governmental regulations superimposed after the fact and earthquakes, explosions, floods or other disasters provided that such causes could not have been reasonable foreseen and the risk and/or consequences of such causes mitigated on a commercially reasonable basis. The Parties agree that an event shall not be considered to be beyond reasonable control if a reasonable businessperson applying due diligence in the same or similar circumstances under the same or similar obligations as the provisions of the Service Agreement would have put in place contingency plans to either materially mitigate or negate the effects of such event. A Party seeking to rely on this Section must (i) notify the other Party immediately and in detail of the anticipated or actual commencement of and the cause of postponement; (ii) notify the other Party promptly of any material changes in the circumstances which resulted in the postponement including when the reason for the postponement is at an end; and (iii) use diligent efforts to avoid or remove such cause of non-performance and to minimize the consequences thereof, including utilizing all resources reasonably required in the circumstances including without limitation obtaining supplies or services from other resources if they are reasonably available.

7.2 *Assignment.* Customer may not assign or transfer its rights, duties or obligations under this Agreement, in whole or in part, to

any person or entity, without the prior written consent of Provider, which consent shall not be unreasonably withheld, provided that Customer may assign its rights and obligations to the purchaser in connection with a sale of all or substantially all of its assets. Any attempted assignment in contravention of this Article shall be null and void. Provider may subcontract any Services to be performed hereunder without the consent of Customer in each instance.

7.3 *Notices.* Notices under this Agreement shall be in writing, addressed to the party at its last provided address, and shall be deemed given when delivered personally, or by email (with confirmation of receipt) or conventional mail (registered or certified, postage prepaid with return receipt requested).

7.4 *Waiver.* No term or provision of this Agreement is deemed waived and no breach excused, unless the waiver or consent is in writing and signed by the Party claiming to have waived or consented. Any consent by any Party to, or waiver of, a breach by the other, whether expressed or implied, does not constitute a consent to, waiver of, or excuse for, any other different or subsequent breach.

7.5 *Governing Law.* This Agreement is governed by and construed in accordance with the applicable laws of the Province of Ontario and the federal laws applicable therein. The parties irrevocably and unconditionally consent, submit and attorn to the non-exclusive jurisdiction of the courts of Ontario and all courts competent to hear appeals from them for the purpose of any action or proceeding brought by either of them in connection with or arising out of the Service Agreement and these Terms.

7.6 *Entire Agreement.* The Service Agreement and these Terms (including any agreement incorporated by reference) constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes all previous negotiations, proposals, commitments, writings and understandings of any nature whatsoever, whether oral or written, unless they are expressly incorporated by additional reference in the Agreement.

7.7 *Amendments.* No modification, amendment, supplement to or waiver of these Terms or the Service Agreement, or any of their provisions shall be binding upon the parties hereto unless made in writing and duly signed by both parties. If any consents of a Party are required pursuant to the Service Agreement or these Terms, such consents shall not be unreasonably withheld or unduly delayed.

7.8 *Benefits.* This Agreement is binding upon and endures to the benefit of the parties and their respective successors and permitted assigns, if any, of the parties hereto, except that nothing contained in this provision shall be construed to permit any attempted assignment which would be unauthorized or void pursuant to any other provision of this Agreement.

7.9 *Survival.* Any terms and conditions of this Agreement which by their nature extend beyond the termination of this Agreement shall survive such termination. This includes, without limitation Article 5 (Ownership, Disclaimer Of Warranties And Damages And Limitation Of Liability), Section 7.5 (Governing Law) and Section 7.12 (Non-Solicitation of Personnel).

7.10 *Independent Contractors.* Each Party's relationship with the other Party will be that of an independent contractor. Nothing in the Service Agreement or these Terms is to be construed as designating either Party as an agent, employee, joint venture or partner of the other Party. Provider shall not permit its personnel or agents to hold themselves out to be, or claim to be officers or employees of Customer, or make claims, demands or applications with respect to any right or privileges available to any officer or employee of Customer. Neither Party shall have the authority to serve as agent for the other Party, to make any statement, representation or commitment of any kind on behalf of the other Party not to take any action which may be binding on the other Party. Provider shall at all times during the term of this Agreement maintain such supervision, direction and control over its personnel and agents as is consistent with and necessary to preserve its independent contractor status.

7.11 *Additional Provisions.* The Parties acknowledge that they may from time to time agree to additional rights and obligations that shall apply solely to particular Services or Deliverables, and that the Service Agreement applicable thereto may contain additional rights and obligations of the Parties.

7.12 *Non-Solicitation of Personnel.* Neither Party shall without the other Party's prior written consent solicit for hire any of the other Party's employees who are directly involved in the provision or receipt of the Services during the time such personnel are involved providing or receiving the Services and for twelve (12) months thereafter. This provision shall not restrict the right of either Party (1) to solicit the employment of the personnel of the other Party after such personnel have separated or have been separated from the service of such Party, provided that the hiring Party did not induce such separation, (2) to solicit or recruit generally in the media, and (3) to hire, without the prior written consent of the other Party, any personnel of the other Party who answers any advertisement or who otherwise voluntarily applies for hire without having been initially personally solicited or recruited by the hiring Party.

7.13 *Non-Solicitation of Clients and Suppliers.* During the Term and for twelve (12) months after termination of this the Service Agreement or these Terms, neither party shall, directly or indirectly (i) request, induce or attempt to influence any supplier of goods or services of the other Party to curtail any business it transacts with such Party; (ii) request, induce or attempt to influence any customers of the other Party which have done business with, or potential customers which may, to the knowledge of such Party, have been in contact with, the other Party during this period, to curtail or cancel any business they may transact with such Party.

7.14 *Counterparts.* The Service Agreement may be executed in counterparts, each of which is deemed to be an original and all of which together are deemed to be one and the same instrument. The delivery of a facsimile or electronic copy of an executed counterpart of the Service Agreement shall be deemed to be valid execution and delivery of the Service Agreement.

7.15 *Language.* The parties have requested that the Service Agreement, these Terms and all documents contemplated thereby or relating thereto be drawn up in the English language. Les parties ont requis que cette Convention ainsi que tous les documents qui y sont envisagés ou qui s'y rapportent soient rédigés en langue anglaise.

7.16 *Questions.* If you have any questions regarding these Terms or your use of the Services, please contact us here:

FyeLabs Incorporated
hey@fyelabs.com