



This Master Services Agreement was last updated on January 23, 2017.

This agreement contains the general terms and condition in which Andela provides services to its Clients.

Upon execution of this Agreement with a completed Statement of Work, Client will be legally bound to these terms.

Client should carefully read the following Master Service Agreement **BEFORE** executing the agreement.

MASTER SERVICES AGREEMENT

This Master Services Agreement (“Agreement”) is made between, Andela Inc. and Client.

RECITALS

WHEREAS, Andela is in the business of staffing technology professionals on long-term contracts.

WHEREAS, Client desires to engage Andela to staff technology professionals for Client and Andela.

AGREEMENT

NOW THEN, for and in consideration of the mutual promises and covenants herein contained, the Parties agree as follows:

1. **Staff:** Andela agrees to staff technology professionals for Client (the “Services”) as described in one or more Statements of Work (“SOW”) in the form attached as Exhibit A. Any conflict or inconsistency between the provisions of this Agreement and any executed Statement of Work shall be resolved in favor of this Agreement except to the extent the SOW explicitly provides otherwise.
2. **Term and Termination:**
 - a. Material Breach. With the exception of monetary breaches as described in Section 2.b, the non-breaching party may terminate this Agreement or any SOW upon fourteen (14) days written notice (describing the breach in detail) in the event of a breach of any other material provision of this Agreement and if the breaching party fails to cure such breach during such period.
 - b. Monetary Breach. If Client fails to make a monetary payment within thirty (30) days of receipt of an invoice for such payment as specified in this Agreement, Andela shall notify Client of such failure in writing and if Client fails to cure such breach within fifteen (15) days of its receipt of such notice, Andela may immediately terminate the applicable SOW.
 - c. Continuation. This Agreement shall remain in effect and govern Services provided to Client by Andela until this Agreement is terminated, or the parties agree otherwise. This Agreement may be terminated by either party upon 90 days prior written notice to the other party. During the initial term of each SOW, such SOW may be terminated upon 60 days prior written notice unless the SOW provides a different termination notice period in which case the SOW shall prevail. After the initial term, each SOW shall automatically renew for additional one month periods until Client terminates such SOW at least fifteen (15) days prior to the last day of any monthly extension period.
 - d. Termination. Upon termination of this Agreement for any reason Client shall immediately pay to Andela all amounts owed to Andela pursuant to Section 3 hereof for Services performed prior to



termination including expense reimbursement under Section 3 (c) and, in the case of termination for client's breach, Andela's reasonable costs relating to commitments made to fill its obligations under this Agreement. For the avoidance of doubt, termination of this Agreement shall not affect rights and/or obligations of the Parties which arose prior to any such termination, including without limitation warranties, indemnities, limitations of liability, which by their nature extend beyond the expiration or termination of this Agreement (unless otherwise provided in applicable SOWs) and such rights and/or obligations shall survive any such termination.

3. Professional Services Fees, Consideration, Payment:

- a. Client shall pay Andela the fees ("Fees") set forth in the applicable SOWs. All Fees are due and payable prospectively by Client on a monthly basis within thirty (30) days of receipt of an invoice for such Fees. Client shall notify Andela of any disputed Fees within thirty (30) days of receipt of such invoice. Such invoices shall be issued prior to the 5th day of each month in which the Services are to be performed. Late payments accrue interest at a rate of the lesser of 1.5% per month or the highest applicable lawful rate.
- b. Each Party shall, from time to time, designate a single point of contact that shall have primary responsibility on behalf of the designating Party for reviewing, responding to and resolving any billing-related or payment-related inquiries that may arise during the course of this Agreement.
- c. Andela is entitled to reimbursement from Client for documented "out-of-pocket" and travel expenses that are reasonably incurred and necessary for Andela's performance of the Services. Unless otherwise specified in the applicable SOW, Client must pre-approve in writing all expenses for reimbursement. Andela will support all requests for reimbursement of travel expenses with documentation including receipts for expenses.

4. Staffing, Personnel, Schedule:

- a. Unless otherwise provided in the applicable SOW, Andela shall have sole discretion over the personnel used to provide the Services, provided that Andela shall ensure that the personnel are in all cases suitably qualified. Andela shall use reasonable efforts to provide the Services through the same personnel for the duration of a SOW, provided that Andela shall be entitled to replace such personnel with personnel of equivalent qualification and experience on no less than 5 business days notice to Client.

5. Intellectual Property:

- a. All copyrights in any deliverables delivered pursuant to an SOW ("Deliverable") or arising out of the Services performed by the Andela technology professionals will become the property of the Client upon full payment of all amounts due and owing. Contingent on such payment, Andela hereby assigns to the Client, or its designee, all rights, title and interest of Andela in and to any and all such copyrights throughout the world. Andela shall retain any of its pre-existing intellectual property rights and any residual rights provided that to the extent any such intellectual property rights are embodied in the Deliverables, Andela hereby grants Client a non-exclusive, world-wide license to use such intellectual property rights to the extent necessary for the use of the Deliverables.
- b. Client shall retain ownership of all content and materials provided to Andela hereunder. Client takes full responsibility for any content (including, without limitation, graphics, audio, copy text, video, and images) provided to Andela to be used in this Project. Client represents and warrants that it has full rights to exploit all content and materials provided to Andela.



6. **Taxes:** Client shall be responsible for any and all taxes levied on any transaction under this Agreement, including all federal, state, and local taxes, levies and assessments, excluding any tax based on Andela's net income. In the event that Andela is required at any time to pay any tax for which client is responsible, Client shall promptly reimburse Andela for such payments, subject to the provision to Client of supporting documentation evidencing such payments.
7. **Warranties:** Andela warrants and represents that it has full authority to enter into this Agreement, to consummate the transactions contemplated hereby, and that this Agreement is not in conflict with any other agreement to which Andela is a Party or by which it is bound. Andela warrants and represents further:
 - a. each of its technology professionals assigned to perform any part of the provisions of the Services under a SOW shall have the proper skill, training and background for his/her level of competence as specified in the SOW so as to be able to perform in a competent and professional manner;
 - b. Client shall receive good and marketable title to all copyrights in original materials included in any Deliverables, developed under this Agreement, unless otherwise specified in an individual SOW, free and clear of all liens, claims, encumbrances and security interest whatsoever of a third Party;
 - c. unless expressly set forth in any SOW, all Deliverables and Services provided by Andela to Client by its staff are delivered or provided "as is" and "where is" and may or may not be error-free;
 - d. ANDELA MAKES NO OTHER REPRESENTATIONS OR WARRANTIES OF ANY KIND EXCEPT AS EXPRESSLY PROVIDED HEREIN. SPECIFICALLY, ANDELA DISCLAIMS ALL GUARANTEES, REPRESENTATIONS AND WARRANTIES (WHETHER EXPRESS OR IMPLIED, ORAL OR IN WRITING, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND WHETHER OR NOT ARISING THROUGH A COURSE OF DEALING), RELATING SOMEHOW TO THE SERVICES, THIS AGREEMENT OR ANY SOW.
8. **Limitation of Liability; Exclusion of Certain Damages:** Except for liabilities resulting from either Party's actual intentional and/or willful misconduct, each Party's liability hereunder shall not exceed the fees paid or payable by Client within the one-year period immediately preceding the date that the alleged wrongful act first occurred. NEITHER CLIENT NOR ANDELA SHALL BE LIABLE TO ONE ANOTHER FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR OTHER INDIRECT DAMAGES, LOSSES, COSTS OR EXPENSES OF ANY KIND OR ANY LOST OR IMPUTED PROFITS ARISING OUT OF THIS AGREEMENT OR ANY AGREED UPON SOW OR ITS TERMINATION, HOWEVER CAUSED, AND WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCTS LIABILITY OR ANY OTHER THEORY OF LIABILITY REGARDLESS OF WHETHER SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, LOSSES, COSTS OR EXPENSES. EACH PARTY HERETO WAIVES ANY CLAIMS THAT THESE EXCLUSIONS DEPRIVE SUCH PARTY OF AN ADEQUATE REMEDY.
9. **Indemnification:** Client shall indemnify Andela, and our directors, officers, affiliates, employees and agents against any and all losses, damages, penalties, settlements, costs and expenses (including reasonable attorneys' fees), and defend Andela in any suit, claim, or proceeding, brought by any third Party or governmental agency, arising from or relating to Client's breach of any provision of this Agreement or any applicable SOW, and/or Client's violation of any applicable law or regulation. Andela agrees to indemnify Client, and Client's directors, officers, affiliates, employees and agents against any and all losses, damages, penalties, settlements, costs and expenses (including reasonable attorneys' fees), and to defend Client in any suit, claim, or proceeding, brought by any third Party or governmental agency, arising from Andela's breach of any provision of this Agreement or any applicable SOW or Andela's violation of any applicable



law or regulation. In consideration of these indemnification obligations, each Party must provide the indemnifying Party prompt notice of the assertion of any claim and permit the indemnifying Party to assume the full control of the defense and/or settlement thereof. Notwithstanding the foregoing, an indemnifying Party shall not enter into a settlement which would affect any rights of the indemnified Party without such indemnified Party's prior written consent.

10. **Confidentiality:** In connection with entering into and performing under this Agreement and each SOW, each Party may receive or have access to commercially valuable technical and nontechnical confidential or proprietary information of the other Party (including confidential or proprietary information of a third party), including information in whatever form, relating to the business of such Party that is not generally known or available to others, including but not limited to, source code and documentation for software, trade secrets, know how, customer lists, pricing strategies, payment terms, the terms of this Agreement and each SOW, marketing and business plans, information concerning such Party's vendors, and such Party's contemplated plans, strategies and prospects ("Confidential Information"). Except as expressly and unambiguously provided herein or in any agreed upon SOW, the receiving Party will hold in confidence and not disclose any Confidential Information of the disclosing Party and will similarly bind its employees. Each Party acknowledges and agrees that any Confidential Information received or obtained from the other Party will be the sole and exclusive property of the other Party and may not be used, disseminated or disclosed except as may be necessary to perform the obligations required under this Agreement, any agreed upon SOW or as may be required by law. If disclosure is required by law, the Party required to disclose Confidential Information shall reasonably cooperate with the other Party (at the other Party's request and expense) so that the other Party may preserve the confidentiality of the Confidential Information to the extent reasonably possible. Notwithstanding the foregoing, Confidential Information does not include: (a) information that is in the public domain prior to the disclosure or becomes part of the public domain through no wrongful act of the receiving Party; (b) information that was in lawful possession of the receiving Party prior to the disclosure; (c) information that was independently developed by the receiving Party outside the scope of this Agreement, and/or (d) information that was disclosed to the receiving Party by a third party who was in lawful possession of the information.
11. **No Exclusivity:** Andela's Services, including but not limited to as such are described under the terms of this Agreement, are not and shall not be deemed to be exclusive to Client nor to Client's affiliates. Andela is and shall remain free to render similar services to other entities, and to engage in all such activities as Andela deems appropriate, provided that in doing so Andela does not breach any covenants or obligation expressly set forth in this Agreement. Andela shall not have any duty or obligation to disclose to Client any confidential or proprietary information that Andela may acquire about the business, operations or activities of any other person or entity, even if such information could be deemed material and relevant information to Client.
12. **Publicity, References:** Each of Andela and Client may use the name and logo of the other Party in commercially reasonable marketing, advertising and/or publicity releases, and describe work completed under this Agreement and any related Statements of Work in summary and general form, without revealing any of the other party's confidential information so long as the relationship between the Parties is accurately portrayed, without securing additional written approval of the other Party.
13. **Nonsolicitation, Noninterference:** Client shall not hire, solicit, or otherwise engage any employee (including Fellows) for a period of 1 year after such technology professional ceases to be an employee of Andela, without Andela's express written consent, which consent may be withheld or conditioned in Andela's sole discretion. During the Term and for one year thereafter, Client shall not induce or attempt to induce any customer, client, vendor, or supplier of Andela to cease, or reduce its level of, doing business with Andela.
14. **Relationship:** The relationship of Andela and Client is that of independent contracting parties, and no joint venture, partnership, agency, franchise or employment relationship will be deemed to exist between them.



15. **Limited Duties:** To the extent that Andela in rendering Services is to have a fiduciary or other similar duty to Client beyond the specific covenants and agreements set forth in this Agreement, such fiduciary or other similar duties must be expressly set forth and referenced on the SOW. Absent express language creating a fiduciary relationship, nothing in this Agreement (or otherwise arising from the delivery or receipt of goods or services) shall operate or be construed to operate to create any fiduciary duties on the part of Andela.
16. **Excusable Delay:** Neither Party will be liable for any failure to perform any obligation (other than payment obligations) due to causes beyond such Party's reasonable control, including the elements, acts of God, labor disputes, acts of the public enemy and/or terrorism, acts of civil or military authority, fires, floods, epidemics, quarantine restrictions, failure or erratic behavior of telecommunications or power systems, sabotage, armed hostilities and riots. Notwithstanding the foregoing, in every case the delay or failure to perform must be beyond the control and without the fault or negligence of the Party claiming excusable delay. Performance times under this Agreement shall be considered extended for a period of time equivalent to the time lost because of any delay which is excusable hereunder; provided, however, that, if any such delay shall, in the aggregate, last for a period of more than 60 days, the Party not relying on the excusable delay, at its option, may terminate the SOW involved.
17. **Entire Agreement:** This Agreement contains the entire agreement of the Parties and supersedes all prior written or verbal agreements, if any and of whatsoever sort or type, including, but not limited to, all prior discussions between them with respect to the subject matter hereof. The terms and conditions of any and all exhibits, schedules, and contemporaneous or future agreed SOWs and/or later appended attachments are incorporated herein by this reference, and shall constitute indivisible parts of this Agreement as if fully set forth herein today.
18. **Severability:** If any one or more of the provisions (or portions thereof) of this Agreement shall for any reason be held by a final determination of a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions (or portions of the provisions) of this Agreement, and the invalid, illegal, or unenforceable provision shall be deemed replaced by a provision that is valid, legal, and enforceable and that comes closest to expressing the intention of the Parties.
19. **Amendments, Modifications:** No modification, amendment, supplement to or waiver of this Agreement or any of its provisions shall be binding upon the Parties hereto unless made in writing and duly signed by both Parties. A failure or delay of either Party to this Agreement to enforce at any time any of the provisions of this Agreement, or to exercise any option which is herein provided, or to require at any time performance of any of the provisions hereof, shall never be construed to be a waiver of such provision of this Agreement and shall not excuse the other Party's performance of such, nor affect any rights at a later time to enforce the provision. SOWs may be amended or modified by e-mail acknowledged by an authorized person for each Party.
20. **Assignment:** Neither Party may assign this Agreement, in whole or in part, without the other Party's prior written consent (which may be withheld or conditioned), except to any affiliate, or in connection with any merger, consolidation, reorganization, sale of all or substantially all of its assets or similar transaction, provided that the assignee agrees in writing to be bound by all of the terms and conditions of this Agreement and all SOWs. Subject to the foregoing, this Agreement will be binding on and enforceable by the Parties and their respective successors and permitted assigns. Consent by either Party to assignment in one instance shall not constitute consent by such Party to any other assignment.
21. **Governing Law and Jurisdiction, Fees, Costs:** This Agreement shall be governed by and construed in accordance with the laws of the State of New York without reference to conflict of laws provisions. Any dispute, claim or controversy arising out of or related to this Agreement shall be resolved in the federal or state courts sitting in New York County, New York. In any proceeding relating to a dispute arising out of or relating to this Agreement, the prevailing Party shall be entitled to an award of reasonable legal fees and costs (e.g. the "English Rule" is adopted).



- 22. Notices:** All notices and other communications required or permitted under this Agreement shall be deemed to have been duly given and made upon actual receipt if in writing and if served (i) by personal delivery to the Party for whom intended (which shall include delivery by FedEx or similar service, without requirement for signature upon delivery), (ii) by postage prepaid, certified or registered mail, return receipt requested, in the United States mail, or (iii) by facsimile or email to such relevant address for such Party, with confirmation back of delivery, and in each case bearing the then address of record for, or such other address as may be designated hereafter by, such Party.
- 23. Construction:** Each Party and its counsel have participated fully in the review and revision of this Agreement. Any rule of construction suggesting or requiring ambiguities is resolved against the drafting Party shall not apply in the interpretation of this Agreement.
- 24. Counterparts:** This Agreement may be executed by electronic and/or facsimile signature, and by either of the Parties in counterparts, each of which shall be deemed to be an original, but all such counterparts shall constitute one and a single instrument.