

MediusFlow Cloud Partner Terms & Conditions

THESE MEDIUSFLOW CLOUD PARTNER TERMS & CONDITIONS GOVERN YOUR PARTICIPATION IN OUR CLOUD PARTNER PROGRAM. BY EXECUTING AN ENROLLMENT FORM THAT REFERENCES THESE MEDIUSFLOW CLOUD PARTNER TERMS & CONDITIONS, YOU AGREE TO BE BOUND BY THE TERMS SET OUT HEREIN.

These MediusFlow Cloud Partner Terms & Conditions were last updated on March 15, 2017. They are effective between You and Us as of the date of Your acceptance thereof.

1 Definitions

“Agreement” means these Cloud Partner Terms & Conditions and the Enrollment Form.

“API” stands for Application Programming Interface.

“Breaking Changes” means changes made to the integration API:s that would cause the components of an external system interfacing the API:s to become non-operational or alter its behavior in a non-expected way with severe consequences.

“Cloud Service” means the online, web-based services offered by Medius and ordered by You for subsequent provision to End Clients, as stated in the respective Order Forms.

“End Client/s” means the legal entity/entities identified by You pursuant to this Agreement and with which You enter into an End Client Contract for the provision of the Cloud Service.

“Enrollment Date” means the effective date of enrollment in the partner program as stated in the Enrollment Form.

“Enrollment Form” means a MediusFlow Cloud Partner Enrollment Form.

“Lead” means an identified opportunity to provide the Cloud Service to a prospective End Client.

“Order Form” means an ordering document specifying the services/products to be provided for each End Client by Us to You.

“Party”/“Parties” means You and Us.

“Professional Services” means the activities and deliverables to be provided by You to an End Client separately from the Cloud Service, as stated in the respective End Client Contracts entered into between You and the End Client.

“Referral Fee” means the commission You are entitled to in the event of You providing Us with a qualified referral Lead.

“Target Segments” means the market segments, as stated in the Enrollment Form, for which this Agreement is valid.

“We”/“Us”/“Ours” means the Medius company with which You have executed an Enrollment Form.

“You”/“Your”/“Yours” means the company or other legal entity that has executed the Enrollment Form and thereby accepts this Agreement with Us.

2 Scope of partnership

2.1 Through the execution of the Enrollment Form, We hereby grant to You, and You accept from Us, subject to the terms and conditions of this Agreement, a right to market, promote and provide the Cloud Service to End Clients in the Target Segments.

2.2 Notwithstanding anything in this Agreement to the contrary, the arrangements created by this Agreement are made on a non-exclusive basis and nothing set out herein shall restrict or impede Us from offering the Cloud Service or other products or services to other parties, including End Clients, both within and outside of the Target Segments.

2.3 You are responsible for all aspects of the End Client relationship, including the provision of Professional Services, integration, support and collection of payment.

3 Professional Services and integration

3.1 **Professional Services.** You shall provide Professional Services to the End Clients in accordance with what is set out in the respective End Client Contracts entered into between You and the End Client. For the avoidance of doubt, We shall have no liability in respect of any Professional Services not provided by Us.

3.2 **Integration.** You are responsible for providing all necessary integrations, to the extent not explicitly included in the Cloud Service, with the End Clients’ systems, including but not limited to, ERP systems, financial systems and/or procurement systems and We shall have no liability in respect of such integration. You are responsible for all integrations delivered by You, and unless an integration is provided by Us under an Order Form, We shall have no obligation to provide any support in respect of the integration.

3.3 **Integration API:s in the Cloud Service.** We are responsible for maintaining and supporting the integration API(s) provided in the Cloud Service. You are obliged to use the integration API:s according to any written or oral instructions by Us.

3.4 **Breaking Changes.** If We introduce any Breaking Changes to the integration API(s) we shall notify You ninety (90) days in advance of introducing such changes and You are obliged to

make changes to Your integrations accordingly in a timely fashion. Notwithstanding the aforesaid, We may introduce Breaking Changes immediately if We, at Our sole discretion, deem it necessary due to security, performance or changes to embedded third party software and We shall in such case inform You as soon as possible of the reasons for introducing the Breaking Changes.

4 Support

4.1 **First line support to End Clients.** You are responsible for providing first line support towards each End Client.

4.2 **Second line support to cloud partner.** We are responsible for providing You with second line support for the Cloud Service, as set out in the Order Form entered into between You and Us.

5 Documentation and training

We shall ensure that You have access to training, current marketing materials in the form of leaflets, presentations, website and other necessary materials in order to provide information about the Cloud Service to prospective End Clients.

6 Partner obligations, limitations etc.

6.1 **Partner obligations.** You shall at all times act in good faith and shall not engage in any fraudulent activities. You may only market, promote and provide the Cloud Service in a manner which reflects positively upon the business and reputation of Medius and that is in any way deemed contrary to applicable laws on unfair marketing, bribes or that is in any other way deemed illegal or inappropriate. You shall have qualified personnel available to fulfill Your obligations under this Agreement and Your sales representatives shall be capable of delivering the value proposition of the Cloud Service and its interface, advantages and high-level functionality.

6.2 **Partner limitations.** You shall only market, promote and provide the Cloud Service to Leads that have their principal place of business (in respect of geographical segments) and their primary business activities (in respect of business segments) within the Target Segments. Taking the aforesaid into consideration, should You become aware of a Lead outside the Target Segments, You may refer such Lead to Us, for which You may be entitled to a Referral Fee in accordance with what is set out in Section 9.

6.3 **Partner representation.** You shall not make any representation or warranty concerning the Cloud Service on Our behalf or commit Us to any contracts save as expressly provided in this Agreement.

7 Order process

For each End Client to whom You wish to provide the Cloud Service, You and We shall execute an Order Form. The Order Form governs Our provision of the Cloud Service to You (i.e. the relationship between the You and Us in respect of the Cloud Service) at the terms and conditions applicable at the time of execution of the Order Form.

8 End Client Contracts

8.1 For each End Client to whom You provide the Cloud Service, You shall enter into a written agreement governing Your provision of the Cloud Service to the End Client, and, as the case may be, any additional products and services (an “**End Client Contract**”). You shall ensure that We do not have any direct liability to the End Clients with whom you enter into End Client Contracts, and shall further ensure that:

- a) Such End Client Contracts, as regards Your provision of the Cloud Service, can in no event be in force for a longer period than such period for which You are entitled to use the Cloud Service under the Order Form.
- b) No End Clients are granted any exclusive rights; and
- c) The End Clients will be bound by End Client Contracts with You on terms equivalent to the MediusFlow Master Cloud Subscription Agreement, available at http://www.mediusflow.com/en/legal/mf_mcsa.

9 Referrals

9.1 **Leads.** For any Leads referred by You to Us that are not within the Target Segments You shall be entitled to a Referral Fee, in the amount set out in the Enrollment Form, under the following conditions:

- a) The Lead is deemed as qualified by Us and is converted into a sale whereby the Lead enters into an Order Form with Us for the subscription of the Cloud Service; and
- b) You are the first partner to refer the Lead.

9.2 **Referral payment.** If You are entitled to a Referral Fee according to section 9.1 You shall receive payment when We have received the first annual subscription fee from the converted lead.

10 Fees and Payments

10.1 **Enrollment fee and partner program fee.** Your rights under this Agreement are dependent on Your payment of the enrollment fee and the partner program fee as set out in the Enrollment Form.

10.2 **Referral Fee.** You may be entitled to Referral Fees in accordance with what is set out in Section 8.

10.3 **Reseller pricing.** Remuneration for Your subscription to the Cloud Service shall be in accordance with Our reseller pricelist applicable from time to time. We shall have the right to change Our prices at Our discretion and shall inform You of any changes to the pricelist no less than thirty (30) days before such changes come into effect.

10.4 **End Client pricing.** You shall have the right to decide and set the prices for the provision of the Cloud Service to End Clients and all other services provided by You to End Clients.

10.5 **Taxes etc.** All fees and prices stated in this Agreement are exclusive of taxes, carriage costs, customs, duties and other similar taxes and expenses.

10.6 **Payment term.** Payment term is thirty (30) days net.

10.7 **Expenses.** You shall be solely responsible for Your own expenses, and those of Your personnel, including but not limited to expenses incurred in the marketing, promotion, demonstration and provision of the Cloud Service.

11 Confidentiality

11.1 Each Party undertakes to keep confidential all information (written or oral) of a confidential nature regarding the business and affairs of the other Party which have been obtained or received prior to this Agreement or which the Party will obtain or receive during the term of this Agreement, save for information which is:

- a) already in its possession without restrictions as to use or disclosure other than as a result of a breach of this Section 11;
- b) or becomes a part of the public domain through no act or omission of the other Party;
- c) is lawfully received from a third party without restrictions as to use or disclosure; or
- d) required by a court of law or other competent authority (including, but not limited to public authorities, competent stock exchanges, where applicable).

11.2 Each Party shall take all such steps as shall from time to time be necessary to ensure compliance with the provisions of this Section 11 by its employees, agents and subcontractors. Each Party shall, however, have the right to announce the entering into of this Agreement (and any other agreements in connection therewith) by issuing press releases, on websites or any other means. This Section 11 shall survive expiry or termination of this Agreement for a period of five (5) years.

11.3 For the duration of this Agreement, both Parties shall actively promote each other. This includes but is not limited to communicating the other Party as a "trusted partner" on their websites.

12 Indemnification

Each Party ("**Indemnifying Party**") shall defend, indemnify and hold harmless the other Party, the other Party's affiliates, and their directors, officers, employees and agents (each an "**Indemnified Party**") for all losses, damages, injuries, costs and expenses (including without limitation court costs and reasonable attorneys' fees) from all third party claims incurred by the Indemnified Party arising out of (i) the death or bodily injury of any agent, employee or business invitee of the Indemnified Party, (ii) the damage, loss or destruction of any tangible property of the Indemnified Party, to the extent caused by the negligent acts or omissions or willful misconduct of the Indemnifying Party, arising out of or related to this Agreement, or (iii) any breach of the obligations of either Party set forth in this Agreement.

13 End Client claims

As set out in Section 2.3, You are responsible for all aspects of the End Client relationship. Hence, except for the indemnification obligations set out in Section 15, We shall not be liable for any losses or damages arising out of any claim, whether in contract or tort, or otherwise, from any of Your End Clients.

14 Intellectual property rights and other proprietary rights

14.1 All intellectual property and other proprietary rights and information in and to the Cloud Service are and shall remain

Our property or (where applicable) Our suppliers', affiliates' or third party licensors'. Nothing in this Agreement shall be interpreted as an assignment of or a license to any such intellectual property or other proprietary rights, except as expressly set out in this Agreement.

14.2 You are hereby granted a non-exclusive right to use the Cloud Service as required for providing the Cloud Service to End Clients within the Target Segments pursuant to the terms and conditions of this Agreement. The right set out herein shall be valid for as long as any End Client Contracts for the Cloud Service are in force, and never longer than such period for which You are entitled to use the Cloud Service under the relevant Order Form.

14.3 You may only use the Cloud Service as set out in this Agreement and may not, or permit others to, alter or modify, decompile, disassemble, translate, adapt or reverse engineer the Cloud Service.

14.4 You shall, without application of Section 16, indemnify and hold Us harmless against all costs, losses, claims or damages that We may incur as a result of any breach by You of Your undertakings under this Section 14.

14.5 For the duration of this Agreement, each Party grants to the other Party a limited, non-exclusive, royalty free right to use the trademarks, name and logo ("**Marks**") of the other Party, solely as is necessary to perform its marketing and promotional tasks authorized in this Agreement and in accordance with any guidelines provided by the other Party. All other use of the other Party's Marks requires such Party's prior written approval. For the sake of clarity, after termination or expiration of this Agreement, a Party's right to use the other Party's Mark shall cease, provided, however, that You shall be entitled to use Our Marks as is necessary to carry out Your obligations under existing End Client Contracts, for the duration of such End Client Contracts.

15 Intellectual Property Indemnification

Notwithstanding the limitation of liability set out in Section 16.2, We shall pay those costs and direct damages finally awarded against You in connection with any claim by a third party that the Cloud Service directly infringes such third party's intellectual property rights (or those costs and damages agreed to by Us in a written monetary settlement) and the reasonable costs of defense incurred by You in connection therewith, including reasonable attorneys' fees and court costs, provided that:

- a) You will promptly notify Us in writing, no later than thirty (30) days after You receive notice of the claim (or sooner if required by applicable law);
- b) You will give Us sole control of the defense and any settlement negotiations (at Our sole cost and expense and provided that We shall not settle any action without Your consent, unless such settlement provides for the unconditional release of You from all liabilities and obligations);
- c) You will not prejudice the defense of the action or claim nor will You make any admission as to liability nor compromise or agree to any settlement of any such action or claim without the prior written consent of Us; and

- d) You will provide Us with such assistance, documents, authority and information as We may reasonably require in relation to the action or claim and defense or settlement thereof.

We shall have no liability to You if You continue to provide the Cloud Service after Your right to do so has ceased or if You provide the Cloud Service in a manner not authorized under this Agreement. Further, We shall have no liability to You if and to the extent an infringement is caused by (i) the use of the Cloud Service for other than its intended purpose or use of the Cloud Service not in accordance with any instructions provided by Us in writing, (ii) a modification of the Cloud Service made by any other party than Us, or (iii) the combination, operation, integration, implementation or use of the Cloud Service together with any other products, systems or environment not included in the delivery made hereunder.

If the Cloud Service becomes, or in Our opinion is likely to become, the subject of an infringement or misappropriation claim, We may, at Our own expense and option, elect to either:

- a) procure the right for You to continue providing the Cloud Service in accordance with the provisions of this Agreement;
- b) make such alterations, modifications or adjustments to the Cloud Service so that it becomes non-infringing without incurring a material diminution in performance or function; or
- c) replace the Cloud Service with a non-infringing substantially similar substitute; or

If We modify or replace the Cloud Service, You shall have the same rights in respect thereof as You have under this Agreement.

This Section 15 states Our entire liability, and Your sole remedies, for any infringement or alleged infringement of third-party intellectual property rights in relation to the Cloud Service.

16 Limitation of Liability

- 16.1 Neither Party will in any event be liable under this Agreement or the termination thereof for any loss of profits, loss of revenues, loss of use, loss of anticipated savings or indirect or consequential damages of any kind.
- 16.2 Our aggregate liability for all damages arising out of or related to this Agreement, whether in contract or tort, or otherwise, shall be limited to the total fees actually paid by You under this Agreement during the twelve (12) month period immediately preceding the event giving rise to such liability. Notwithstanding anything to the contrary, Our limitations of liability under this Section 16.2 shall not apply to (a) Our indemnification obligations under Section 15, or (b) losses caused by Our gross negligence or willful misconduct.
- 16.3 We shall have no liability to You in respect of any default unless You shall have served written notice of the same upon Us within thirty (30) days after the date You became aware or should have become aware of the circumstances giving rise to the default.

17 Force Majeure

A Party is exempted from liability if and to the extent it is prevented from performing its obligations due to circumstances that are outside the Party's reasonable control, including, but not limited to, fire, flood, other natural disasters, war, labor strike, interruption of transit, terrorist acts, accidents, civil commotion, acts of any governmental authority, and other events outside the Party's reasonable control. As soon as such circumstances have ceased, the Party relieved of its obligations shall be obliged to resume its undertakings under this Agreement. A Party shall promptly notify the other Party in writing in order to be released under this provision. If the circumstances continue for more than three (3) months, either Party may terminate this Agreement upon written notice to the other Party. In such case no Party shall have any liability to the other Party.

18 Term & Termination

- 18.1 This Agreement shall enter into force upon execution of the Enrollment Form and shall continue until it has been terminated.
- 18.2 Either Party may terminate this Agreement for convenience upon three (3) months prior written notice to the other Party. If We terminate for convenience You shall be entitled to a pro-rata portion of any pre-paid partner program fees for the remainder of the Agreement term.
- 18.3 In addition to specific termination rights set out elsewhere in this Agreement, each Party shall have the right to immediately terminate this Agreement if (i) the other Party has committed a material breach of this Agreement, and has not rectified the same within thirty (30) days after receipt of written notice from the non-breaching Party specifying the breach, or (ii) the other Party becomes the subject of a bankruptcy order or becomes insolvent or makes any arrangement or composition with or assignment for the benefit of its creditors or goes into liquidation, either voluntary (other than for reconstruction or amalgamation) or compulsory, or if a receiver or administrator is appointed over its assets;
- 18.4 Upon termination of this Agreement. You shall cease to be a participant in the partner program and You shall immediately discontinue all marketing, promotion of the Cloud Service and You may not provide the Cloud Service to any new End Clients. Further, each Party shall immediately return to the other Party all goods, documentation and other items received from the other Party.
- 18.5 Your right to provide the Cloud Service to End Clients is valid during the Agreement term and after the Agreement term for each existing End Client, for as long as such End Client Contract is in force, however never longer than such period for which You are entitled to use the Cloud Service under the relevant Order Form.
- 18.6 Any termination of this Agreement shall not affect (i) any rights and liabilities of the Parties accrued prior to such termination, and (ii) any provision of this Agreement that is expressed to survive its expiration or termination.

19 Assignment and subcontracting

- 19.1 Neither Party shall be entitled to assign or transfer all or any of its rights, benefits or obligations under this Agreement, without the prior written consent of the other Party, except that We may (i) transfer and assign this Agreement to a Medius affiliate and/or (ii) transfer and assign Our right to receive payment under this Agreement or any part thereof to any third party. In addition, We shall be entitled to transfer and assign this Agreement to any entity that acquires all or substantially all of Our assets.
- 19.2 Each Party may use subcontractors for performance of its obligations under this Agreement, provided that any such subcontracting shall not diminish such Party's liability under this Agreement. For the avoidance of doubt, You may not engage subcontractors for the entry into of End Client Contracts. You agree that You shall not engage any subcontractor that is a competitor of Us.

20 Export

Export laws and regulations of the United States of America and any other relevant local export laws and regulations apply to the services performed under this Agreement. You agree that such export laws govern Your provision of the Cloud Service and You agree to comply with all such export laws and regulations (including "deemed export" and "deemed re-export" regulations). You agree that no data, information, software and/or materials will be exported, directly or indirectly, in violation of these laws, or will be used for any purpose prohibited by these laws, including, without limitation, nuclear, chemical, or biological weapons proliferations, or development of missile technology. In addition, each Party represents that it is not named on any U.S. government denied-party list. Neither Party will access or use any deliverables or Confidential Information provided to it under this Agreement in a U.S.-embargoed country.

21 Deliberation

The Parties agree to, in accordance with the best of their abilities, put all efforts forward to resolve any possible disputes through deliberations. Neither Party shall take legal actions before first having invited the other Party to deliberate regarding the matter at hand.

22 Miscellaneous

- 22.1 The Parties agree that this Agreement with appendices constitutes the Parties' full regulation of all matters discussed in this Agreement. All and any possible written and/or oral undertakings and promises preceding this Agreement are replaced by this Agreement. Changes and/or additions to this Agreement shall be made in writing and signed by both Parties.
- 22.2 In the event any part of this Agreement is found invalid this shall not mean this Agreement as a whole is found invalid. In case the invalidity significantly affects any Parties' received benefit or performance according to this Agreement fair and reasonable adjustments to this Agreement shall be made.

22.3 This Agreement shall not be construed more or less strictly against either Party as a result of its participation or not in its preparation or drafting.

22.4 Notices to be given under this Agreement shall be in writing and shall be delivered by hand or sent by first class post or e-mail (such e-mail notice to be confirmed by letter posted within 3 days) to the address or to the e-mail address of the other Party set out above. Any notice shall be deemed to have been received when delivered by hand at the time of delivery, when sent by post on the date on which it would be received in the normal course of posting and when sent by e-mail when the proper answer back confirmation is received by the sender. Changes of postal address, e-mail address or telephone shall be notified to the other Party.

23 Notices, Governing Law and Arbitration

General. This Agreement shall be governed by the respective laws as set out below in this Section 23, which also sets out how claims or disputes arising out of or in connection with this Agreement shall be handled. If you are contracting with a Medius group company that is not referred to in the table below, the notice information, governing law and dispute resolution procedures applicable for Medius Sweden AB shall apply.

If you are contracting with:	Notices should be addressed to:	The Governing law, without regard to its principles of conflict of laws, is:	Any claim or dispute shall be resolved by arbitration according to the following clause:
Medius Aps Delta Park 46 DK-2655 Vallenbæk Denmark	Medius Aps Delta Park 46 DK-2655 Vallenbæk Denmark Email: finance@medius-group.com	Danish law	All disputes arising out of or in connection with the present Agreement shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by a sole arbitrator appointed in accordance with the said Rules. The seat of arbitration shall be Copenhagen, Denmark. The language to be used in the arbitral proceedings shall be English.
Medius Business Process Software B.V. Parade 18 5211 KL's Hertogenbosch The Netherlands	Medius Business Process Software B.V., Parade 18 5211 KL's Hertogenbosch The Netherlands Email: finance@medius-group.com	Dutch law	All disputes arising out of or in connection with the present Agreement shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by a sole arbitrator appointed in accordance with the said Rules. The seat of arbitration shall be Hague, Netherlands. The language to be used in the arbitral proceedings shall be English.
Medius AS Rådhusgata 23 NO-0158 Oslo Norway	Medius AS Rådhusgata 23 NO-0158 Oslo Norway Email: finance@medius-group.com	Norwegian law	All disputes arising out of or in connection with the present Agreement shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by a sole arbitrator appointed in accordance with the said Rules. The seat of arbitration shall be Oslo, Norway. The language to be used in the arbitral proceedings shall be English.
Medius Sweden AB Platensgatan 8 S-582 20 Linköping Sweden	Medius Sweden AB Platensgatan 8 SE-582 20 Linköping Sweden Email: finance@medius-group.com	Swedish law	Any dispute, controversy or claim arising out of or in connection with this Agreement, or the breach, termination or invalidity thereof, shall be finally settled by arbitration administered by the Arbitration Institute of the Stockholm Chamber of Commerce (the "SCC Institute"). The Rules for Expedited Arbitrations of the Arbitration Institute of the Stockholm Chamber of Commerce shall apply, unless the amount in dispute (including any counterclaims) exceeds SEK 1,000,000. Where the amount in dispute exceeds SEK 1,000,000, the Arbitration Rules of the SCC Institute shall apply. The arbitration tribunal shall however under all circumstances be composed of a sole arbitrator. The place of the arbitration shall be Stockholm, Sweden, and the language in the proceedings shall be English.
Medius Global AB Platensgatan 8 S-582 20 Linköping Sweden	Medius Global AB Platensgatan 8 SE-582 20 Linköping Sweden Email: finance@medius-group.com	Swedish law	Any dispute, controversy or claim arising out of or in connection with this Agreement, or the breach, termination or invalidity thereof, shall be finally settled by arbitration administered by the Arbitration Institute of the Stockholm Chamber of Commerce (the "SCC Institute"). The Rules for Expedited Arbitrations of the Arbitration Institute of the Stockholm Chamber of Commerce shall apply, unless the amount in dispute (including any counterclaims) exceeds SEK 1,000,000. Where the amount in dispute exceeds SEK 1,000,000, the Arbitration Rules of the SCC Institute shall apply. The arbitration tribunal shall however under all circumstances be composed of a sole arbitrator. The place of the arbitration shall be Stockholm, Sweden, and the language in the proceedings shall be English.
Medius Software Inc. 12 E 49th St FL 11 New York, NY 10017 USA	Medius Software Inc. 12 E 49th St FL 11 New York, NY 10017 USA Email: finance@medius-group.com	Internal laws of the State of New York	Any dispute, controversy or claim arising out of or in connection with this Agreement, or the breach, termination or invalidity thereof, shall be resolved in accordance with the Commercial Dispute Resolution Procedures of the American Arbitration Association ("AAA") in effect on the date of the initial request by the claiming Party, that gave rise to the dispute to be arbitrated (as such rules are modified by the terms of this agreement or may be further modified by mutual agreement of the Parties). The arbitral tribunal shall be composed of three arbitrators, and the arbitrators shall consider the dispute at issue in New York, NY, to the extent practicable within thirty (30) days of the designation of the arbitrators. The decision of the arbitrators shall be final and binding upon the Parties. The final award shall award to the prevailing Party its reasonable attorneys' fees and costs incurred in connection with the arbitration to the extent the arbitrator deems the Party to have prevailed, and may grant such other, further and different relief as authorized by the rules of the AAA. Judgment upon any decision of the arbitrator may be entered into in any court in the United States having jurisdiction thereof, or application may be made to such court for a judicial acceptance of the decision in an order of enforcement.