

## TERMS AND CONDITIONS METADATA.RADIO

1. Your relationship with Pluxcustoms
  - 1.1. The software Metadata.radio is provided to you ("Customer") by:  
PLUXCUSTOMS CV  
Joop van den Endeplein 3  
1217 JW Hilversum  
Phone: +31 (0)35 760 6060  
E-mail: info@pluxbox.com  
Chamber of Commerce nr.: 34299275
  - 1.2. Metadata.radio is available for Customers via the internet as "Software-as-a-Service" either free or on a (paid) subscription basis (hereinafter called "the Service").
  - 1.3. Pluxcustoms provides the Service, subject to the terms and conditions of this agreement.
  - 1.4. If Customer is acquiring a subscription to the Service from a unrelated third party authorized to sell such subscriptions ("Reseller") under a separate agreement with Pluxcustoms ("Reseller Agreement"), these Terms and Conditions Pluxbox apply in addition to any terms and conditions related to the use of Customer of the Service pursuant to any agreement by Customer and the Reseller. These Terms and Conditions contain the terms and conditions that govern your access to and use of the Service.
2. The Service
  - 2.1. The Customer is granted a time limited, non-exclusive, non-transferrable right to use the Service.
  - 2.2. In addition, Pluxcustoms will provide a hosting service for the Customer and provide access to the latest version of the Service at any given time.
  - 2.3. The Service is delivered as-is.
  - 2.4. Pluxcustoms may, at its sole discretion make additions and/or changes in the Service.
  - 2.5. Customer is only allowed to use the Service for its own company or organization and solely for the use explicitly agreed upon.
  - 2.6. Customer's user rights for the Service are limited to the object code. Rights to the source Code are not provided, unless explicitly agreed upon otherwise in writing.

2.7. Pluxcustoms shall ensure the provision of the Service. Pluxcustoms will on a best effort basis and where influential by Pluxcustoms strive for an availability of the SaaS of 99%, measured over a calendar year. The time for maintenance is not included.

### 3. Use of identification codes

3.1. Pluxcustoms will make Identification Codes (usernames, passwords, address codes and/or other codes) solely available to Customer for the use of the Service. Customer will use these Identification Codes with care. Customer will notify Pluxcustoms in the event of loss, theft and/or other forms of unauthorized use, in order to enable parties to take the proper actions.

3.2. Customer carries all responsibility, liability and costs related to the use of Identification Codes used and/or distributed by Customer. In no event will Pluxcustoms be liable for the misuse and/or unauthorized use of Identification Codes.

3.3. If there is a reasonable suspicion of misuse or unauthorized use of Identification Codes, Pluxcustoms can provide Customer with instructions, which must be carried out.

3.4. If it is determined that misuse has been made of Identification Codes or if Customer ignores instructions given, Customer will be immediately in default.

### 4. Use of Process-data

4.1. Pluxcustoms is entitled to use the (meta)data that is entered into the Service by Customer and to make the metadata available to third parties. The metadata does not concern any personal data or data traceable to Customer's.

### 5. Maintenance

5.1. Pluxcustoms strives to inform Customer prior to the commencement of Maintenance with regard to the Service, if Maintenance will lead to problems with regard to gaining access to or the non-availability of central functions therein.

### 6. Data Centre

6.1. The Customer's data will be stored in Pluxcustoms's and / or Pluxcustoms's partners' network of data centres on an undisclosed location.

### 7. Fair use

7.1. Customer will make use of Service and/or other facilities offered in a responsible manner. It is prohibited to use Service and/or other facilities offered in a manner that will result in:

- a) damage in the system of Pluxcustoms and/or third parties;
- b) interference with its use.

7.2. It is not permitted to use Service and/or facilities offered for activities that are illegal and/or in violation of these terms. The foregoing includes amongst others the following activities:

- a) violation of a third party's rights or facilitating the violation of a third party's rights, such as but not limited to intellectual property rights and privacy rights;
- b) noncompliance to law and other applicable regulations;
- c) spamming (unrequested distribution (or creating the possibility for third parties) of advertisement and/or other messages);
- d) storage/distribution of (child) pornography;
- e) sexual intimidation, racial prejudice and/or the harassment of individuals in any other manner;
- f) distribution or making available to third parties in any other manner of obscene, insulting and tormenting material and/or other material of similar nature;
- g) threats;
- h) storage and distribution of viruses, worms and/or other destructive activities;
- i) unauthorized access (hacking) of accounts, systems and/or networks of third parties and/or Pluxcustoms and/or the performance or non-performance of any other act that makes hacking possible.

7.3. Customer indemnifies and will keep Pluxcustoms free from any damage compensation regarding any claim, accusation or court procedure from a third party with regard to the (content of) the data traffic or the information originating from Customer.

## 8. Force majeure

8.1. The Pluxcustoms shall have no liability to the Customer under this agreement if it is prevented from or delayed in performing its obligations under this agreement, or from carrying on its business, by force majeure. Force majeure on the part of Pluxcustoms means, among others things: acts, events, omissions or accidents beyond its reasonable control, including, without limitation, failure of a utility service, transport or telecommunications network or the internet.

8.2. Either of the parties shall have the right to rescind the contract in writing or by e-mail if a situation of force majeure persists for more than 60 days. In such an event, that which has already been performed by Pluxcustoms shall be paid by Customer on a proportional basis without the parties owing each other anything else.

## 9. Limitations and Liability

9.1. Pluxcustoms will not be liable for any indirect damages, including, but not limited to, lost profits or lost data, arising out of or in connection with the Service caused by incorrect or incomplete information in the Service, lack of or insufficient functionality of the Service, loss of data hosted by Pluxcustoms, unauthorized use of data hosted by Pluxcustoms or any other circumstances connected to the Service that may bring financial loss, damages and/or inconvenience upon the Customer or third parties even if Pluxcustoms has actual or constructive knowledge of the possibility of such damages and regardless of whether such damages were foreseeable

9.2. Pluxcustoms shall not be held responsible for the Customer's direct or indirect losses incurred by reasons of the Service not being available (partly or in its entirety) and reduced response time, for technical or other causes.

9.3. Pluxcustoms shall not be responsible for any infringement of the copyright of a third party in respect of information made available in or through the Service by the Customer.

9.4. Pluxcustoms undertakes no responsibility for, and disclaims all liability arising from, any defects or failures in any communication lines, the internet or internet service provider, the computer hardware or software of Customer or its authorized users, or any other service or device used to access the Service. Customer acknowledges and agrees that Pluxcustoms is not responsible for the Customer data and/or any third-party content, and Pluxcustoms shall not be liable for any losses or damages resulting from reliance on any such information or data under any circumstances.

9.5. Subject to the limitations set out in this clause the maximum aggregate liability of Pluxcustoms under this agreement shall under no circumstances exceed the fee paid by Customer in a year for use of the Service.

## 10. Prices

10.1. All prices mentioned exclude VAT and other levies imposed by the government. However, the amounts invoiced will include applicable VAT and other levies possibly imposed by the government.

10.2. Pluxcustoms may or suspend the provision of the Service if Customer fails to make payment of the fees or if suspension is necessary for security reasons.

10.3. Paid fees will not be returned.

## 11. Applicable law and dispute resolution

11.1. The relation between Pluxcustoms and Customer is governed by Dutch law. If any dispute arises in connection with this agreement ("Dispute") that cannot be solved amicably, the Court of Amsterdam will have exclusive jurisdiction to handle the case.