

GENERAL CONDITIONS – SERVICES

ARTICLE 1 : OBJECT

1.1. The present general conditions apply exclusively and with exclusion of any other conditions of the customer (even if the customer refers to his conditions in correspondence or other documents) on all the Parties' offers, rights and obligations in connection with the agreement, except for variations agreed upon in writing which the customer cannot interpret as a general deviation from the present general conditions applicable to prior and/or future commercial relations between parties. Each customer is considered to know and accept these general conditions unconditionally.

ARTICLE 2 : ABSENCE OF A BOND OF SUBORDINATION

2.1. The agreement excludes any bond of subordination. By consequence, neither Mixx, nor its collaborators, nor its personnel or its subcontractors, charged with the execution of the services, are submitted to the authority of the customer and do not enter into an employment relation with the customer.

2.2. Parties explicitly agree that Mixx's collaborators, its personnel and its subcontractors solely follow Mixx's instructions and are submitted to its exclusive authority.

2.3. Mixx organizes its activity in the manner it deems the most appropriate and decides which tools and methods are used for the provision of the services and this notwithstanding the other provisions of the agreement.

2.4. Mixx may appeal to the services or products of third parties for the provision of the services and may be assisted by collaborators, personnel or subcontractors which it freely chooses and for which it is personally responsible.

ARTICLE 3 : ORDERS OF SERVICES

3.1. Mixx is not bound by the content of its folders, printed matters, catalogues, price lists and offers unless explicitly stipulated otherwise in the agreement or if the agreement explicitly refers to these documents.

3.2. The customer communicates his precise requests for services (hereafter "Orders of Services") to Mixx according to his needs. With a view to ordering a service, the customer will gain all necessary advices and will ensure that the services he wants to order are suitable for the contemplated goal.

3.3. The customer guarantees that the Orders of Services are as precise as possible and contain all information enabling Mixx to properly assess the customer's wishes.

3.4. The Orders of Services do not bind Mixx. The agreement is concluded as from the moment that Mixx has explicitly accepted an Order of Services.

ARTICLE 4 : DURATION AND TERMINATION

4.1. The agreement is concluded for a determined period equal to the period required / foreseen to perform the services.

4.2. Without prejudice to the provisions in article 4.1, under reservation of damages, each Party may terminate any Service or the agreement with immediate effect, legally and without prior judicial recourse, by means of a registered notification to the other Party should the other Party violate a provision of the agreement and has not repaired this shortcoming within thirty (30) days following the registered defect letter sent by the damaged Party; Mixx's non respect of a calendar is in no event a constitutive part of such shortcoming that may cause the termination by the customer.

4.3. In the hypotheses defined in article 4.2, Parties also have the option to suspend the effects of the agreement entirely or partially.

4.4. Parties explicitly agree that following matters justify the immediate termination by a Party of the agreement within the meaning of article 4.2, without this list being exhaustive :

- a) the bankruptcy, the partial or entire stopping of the activity, the liquidation or insolvency of the other Party, the seizure of assets of the other Party or if the other Party utters the simple intention to lay down the books or to request for such a postponement of payment or to start such a procedure;
- b) a penal procedure against the other Party or against an administrator de facto or a legal administrator of the other Party which may lead to a conviction to a correctional or criminal penalty;

4.5. The termination of the agreement ends each obligation to provide the services. Upon termination of the agreement for whatever reason,

all amounts due by the customer by virtue of the agreement will be paid to Mixx.

4.6. Within three (3) working days after the termination of the agreement for whatever reason, the customer renders Mixx all information belonging to Mixx in the customer's possession, except if this information can not be the object of a restitution due to its form or nature. In these events the information and the documentation will be destroyed or erased by adjusted means, and the customer must confirm in writing to have proceeded to the destruction or erasure of the concerned information, and this within three (3) working days after the termination of the agreement.

4.7. If after the termination of the agreement, the customer re-orders services, the stipulations of this agreement will automatically apply if such order is accepted by Mixx.

ARTICLE 5 : PRICE AND PAYMENT

5.1. The prices have been determined based on the wages, prices of raw materials, insurance costs, transport costs, environmental taxes etc. applicable at that time. Mixx has the right to change the prices, even if the agreement is already in force and being executed, if one of the aforementioned elements fluctuates or in the event of any other measure outside of Mixx's control. All amounts due to Mixx are without VAT or other taxes, which are born by the customer.

5.2. The prices have been determined in function of certain quantities. Mixx has no obligation to deliver a part of what has been ordered for the corresponding part of the price being determined for the whole order.

5.3. Each invoice of Mixx must be paid by the customer, cash, at Mixx's address and without discount. Each unpaid invoice will be increased automatically and without prior reminder or injunction with interests amounting to one percent (1 %) per month as from the invoice's due date until the day of full payment. Furthermore, the amount of the invoice will be increased automatically and without prior reminder or injunction with a penal clause amounting to twelve percent (12 %), with a minimum of seventy-five euros (75,00 euros), and this notwithstanding any other damages that the customer could be due as a consequence of the violation of his contractual obligations, as well as with judicial interests and any other costs that would eventually be due. In the event of late payment any possibly given discount will lapse.

5.4. Mixx is entitled to make delivery dependent on the payment of an advance or the entire price.

5.5. All invoices are considered to be unconditionally accepted by the customer if he has not protested the invoice by registered letter within seven (7) days as from the date it was issued.

5.6. The customer is in no event entitled to suspend payment, nor to compensate, without the prior written consent of Mixx.

5.7. If the customer does not pay the invoice at its due date, Mixx reserves the right to suspend all deliveries without prior default letter.

ARTICLE 6 : OBLIGATIONS OF THE PARTIES

6.1. OBLIGATIONS OF MIXX

6.1.1. Mixx provides the services to its best capacity and in conformity with the rules of the art applicable at the moment on which the services are provided and in conformity with the criteria of an obligation of means.

6.1.2. Mixx gives no warranties whatsoever, whether express or implied, including warranties of merchantability or fitness for a particular purpose or for certain results.

6.2. OBLIGATIONS OF THE CUSTOMER

6.2.1. The customer recognizes, if he places an Order of Services, that he has been informed correctly by Mixx concerning all important elements of the services and their object and that he has sufficient knowledge hereof.

6.2.2. The customer warrants that he has all rights, title or ownership, as the case may be, necessary to enter into this agreement and to have Mixx perform the services. The customer guarantees Mixx from any third party's claim, should the services / their object, as ordered by the customer imply a violation of a third party's rights, as well as from all damages resulting from such violation.

6.2.3. It's the customer's sole and full responsibility to comply with all rules and legislation, applicable to his activity. The customer warrants that he will do so.

6.2.4. The customer undertakes to provide Mixx in an effective manner and for free with all assistance that is reasonably required and also to provide all information which is necessary or useful for the provision of the services.

ARTICLE 7 : GOOD FAITH AND COLLABORATION

7.1. Parties undertake to perform the agreement in good faith and in strict compliance with their respective commercial interests.

7.2. Parties undertake to meet regularly in order to determine the state of affairs, concerning the performance by each of the Parties of its obligations resulting from the agreement. The requests to hold these meetings are done in written on the initiative of the most diligent Party. The meeting must be held within a reasonable period.

7.3. For each ordered service, the Parties can agree the manner, periodicity and the object of the reports that Mixx must eventually present to the customer. In this event, the customer is held to communicate his approval or his eventual remarks concerning this report within thirty (30) days, unless otherwise stipulated in the report. Should the customer fail to answer within this period, the report is considered as accepted by the customer.

ARTICLE 8 : LIABILITIES

8.1. MISCELLANEOUS

8.1.1. Each Party is solely and fully responsible for the performances and shortcomings of its collaborators, personnel or subcontractors.

8.2. RESPONSIBILITY OF MIXX

8.2.1. The eventual precise terms of performance of the services are solely indicative and do not bind Mixx nor does it have any responsibility what these terms are concerned.

8.2.2. At the moment of delivery the customer will immediately check if the services are in conformity with the order. The customer must refuse the services or merely accept them under written reservation in the event of any visible defect or non conformity.

8.2.3. The customer must communicate any complaint by registered letter within seven (7) days after delivery under penalty of non admissibility.

8.2.4. If the customer remains in default to communicate his complaint to Mixx within aforementioned period, the services are unconditionally deemed accepted, notwithstanding any reaction from Mixx to a late complaint. Such reaction is always without any prejudicial acknowledgment and under reservation of all rights.

8.2.5. The payment or use of the services, even if the customer has communicated his complaint in conformity with article 8.2.3, also counts as an unconditional acceptance of the services.

8.2.6. Communicating a complaint and / or refusing the services does not suspend the customer's obligation to pay the invoice.

8.2.7. Any warranty for hidden defects is limited in time for a period of six months after delivery.

8.2.8. If Mixx is held to the warranty as mentioned in clause 8.2.7 or if a complaint is proven to be justified, then Mixx will be entitled either to correct / replace the services or their object as soon as possible either to grant a reduction / restitution of the price, any right of the customer to indemnities and/or to termination being expressly excluded.

8.2.9. Mixx only indemnifies the customer for damages, resulting from a defect in the services or in their object, suffered by fraud or intentional fault of Mixx. Should Mixx be liable, either contractually or extra contractually, Mixx is in no way held to indemnify any other damages than those which are the immediate and direct consequence of aforementioned defect, with exclusion of all indirect damages, among which the loss of customers, of turnover, of profit, of working hours. In any event will the total accumulated responsibility of Mixx, in connection with the execution of its obligations resulting from the agreement, not exceed the amount of the invoices, effectively paid by the customer, and regarding the services, object of the claim.

8.2.10. The customer cannot claim any compensation from Mixx because of a defect of the services or of their object when this defect is resulting from the non compliance by the customer with his obligations in connection with the agreement and / or is resulting from any tampering with / modification of the services or of their object at the customers sole initiative.

ARTICLE 9 : CONFIDENTIALITY

9.1. Customer undertakes with regard to Mixx :

a) to keep information that is marked as – or deemed to be – confidential (all information disclosed by Mixx under this agreement is considered to be confidential information) and that is (in)directly received at the occasion of the agreement, secret and confidential and to not disclose this to third parties, with exception of its employees, directors, consultants, agents and/or subcontractors for whom it is – in connection with the performance of the agreement – strictly necessary to know this information. These latter may have knowledge of this information in so far as the employment agreements or service agreements they have concluded with the customer contain a confidentiality clause that is as least as protective as present clause;

b) to solely use this information in connection with the obligations resulting from the agreement with exception of each use with another objective than agreed between the Parties and of each use in its advantage or in the advantage of a third party;

c) to take all useful measures in order to assure the protection of this information including taking precautions with regard to announcements, access, copying and internal and external use of this information;

9.2. Is not considered as confidential information within the meaning of this article :

a) information which is publicly known or which is obtained without the violation of the confidentiality clause contained in this article;

b) information independently developed by the customer and without use of the confidential information, insofar as this independency can be proven clearly and with documents.

ARTICLE 10 : FORCE MAJEURE

10.1. In the event of force majeure or in the event of circumstances being a reasonable encumbrance for Mixx to perform its obligations and not attributable to Mixx, Mixx is entitled either to prolong the terms either to terminate the agreement with immediate effect, legally and without prior judicial recourse, by means of a registered notification to the customer without Mixx being held to damages and without Mixx having to prove that aforementioned circumstances were unforeseen.

10.2. Are considered as force majeure in connection with the agreement: fires, floods, wars, riots, strike, blocking, forced closing of the enterprise, diseases, accidents, problems of internal organisation, import or export prohibition, transportation difficulties, delays in / lack of deliveries from suppliers, technical troubles over which Mixx has no control, all this regarding Mixx as regarding its suppliers, subcontractors or other third parties involved.

ARTICLE 11 : RUPTURE

The customer is entitled to break the agreement. In return for this unilateral right of breach he will pay Mixx for all services / Products already delivered as well as 35% of the total amount agreed for the services not yet delivered.

ARTICLE 12 : MISCELLANEOUS

12.1. The agreement constitutes the entire agreement between the Parties and supersedes any previous agreement as well as any previous guarantee or declaration by Mixx with regard to the object of the agreement.

12.2. The customer may not cede or transfer its rights and obligations resulting from the agreement, entirely or partially, for free or against payment, without the prior written consent of Mixx.

12.3. No modification of the terms and conditions of the agreement will be valid without this modification at least being negotiated, permitted and signed by a duly authorised representative of each Party.

12.4. The nullity of a provision contained in one of the articles of the agreement will in no way affect the enforceable character of the other provisions and Mixx will replace such illegal / non enforceable provision by a provision that is legal, valid and enforceable, and approaches the intention of the Parties as a close as possible.

12.5. Under reservation of the provisions of the articles 5.5 and 8.2.3, no failure by one of the Parties, to exercise a right provided by this agreement, will be interpreted as a declaration of a waiver of this right for the future.

12.6. The agreement is governed by Belgian law. The courts of Mechelen, as the case may be the Juge de Paix of Mechelen, have exclusive jurisdiction for any dispute that could arise with regard to the agreement.