

# MXNS Expert Partners Netherlands - General Terms and Conditions for Services

These General Terms and Conditions (the “**T&Cs**”) shall govern the relationship between KTBA Holding B.V. or KTBA Netherlands B.V. or Riskplaza B.V. (“**MXNS Expert Partners Netherlands**”) and the customer (“**Customer**”) for the provision of certain Services (as defined below). The T&Cs include and hereby incorporate by reference each of the Service Appendices which are specified in the applicable Quotation or would otherwise reasonably be understood to apply to the Services by reason of the description of the Services set forth therein.

## 1. Definitions

“**Appendix T&Cs**” means each appendix to these T&Cs (collectively, the “**Appendix T&Cs**”) that sets forth additional terms and conditions applicable to the particular Services identified in such T&Cs Appendix and contracted for under a Quotation.

“**Application Dashboard**” means an online user interface used to access a Software Application, organize and display Customer information generated by, uploaded to or stored within any Software System.

“**Application Platform**” means the host system, Internet infrastructure and services platform and any other communication systems, network connections and interfacing capabilities used by MXNS Expert Partners Netherlands in order to enable the provision of a Software Application.

“**Area of Origin**” means the country or affiliated group of countries for purposes of applicable Privacy Legislation where Customer is located or from which any personal data processed or handled in connection with the Services originates or is first uploaded or otherwise transferred to MXNS Expert Partners Netherlands.

“**Claims**” means any claims, demands, costs, (including but not limited to reasonable attorneys’ fees) or other cause of action, collectively.

“**Contract**” means the contract for Services between MXNS Expert Partners Netherlands and Customer consisting as an indivisible whole of (i) these T&Cs (including all applicable T&Cs Appendix) and (ii) the Quotation, and, if applicable, any specifications referenced or incorporated therein.

“**Crisis Situation**” means any incident or series of incidents involving the quality of Customer’s products or services or the integrity of its production facilities and processes that cause or are likely to cause a disruption of or other significant negative impact on Customer’s business through no fault of MXNS.

“**Customer Content**” means data, reports, certificates, documents, materials, or other information provided to MXNS Expert Partners Netherlands in any form or uploaded to any Software System by or on behalf of Customer, but expressly excluding any Confidential Information of MXNS Expert Partners Netherlands.

“**Database**” means a collection of data, information or other independent elements, systematically or methodically arranged and separately accessible.

“**Deliverables**” means the outcomes of any Services performed by MXNS Expert Partners Netherlands using its best efforts. For Software applications, it includes quality and safety protocols, reports, graphs, diagrams and summaries compiled (by the Customer) by means of the Software Application, either using the Details and/or the Content or otherwise;

“**Developments**” means a modification, improvement, or update to a Software System.

“**Intellectual Property**” means patents, patent applications or derivative rights, utility certificates, copyrights, Database rights, trademarks,

trademark applications, trade names, trade secrets, methods, designs, know-how, domain names, Software, and other proprietary rights.

“**Laws**” means all international, federal, state, and local laws, rules, and regulations.

“**Litigation Support**” means any of the following actions taken by MXNS Expert Partners Netherlands other than in the ordinary course of performing the Services as contemplated under the Contract: make disclosures, provide or submit documents or records or certifications, give testimony, produce other materials or analyses (including Deliverables and Service Reports), or provide support or otherwise become involved in any third-party dispute, litigation, negotiation, governmental or administrative process or proceeding or other transaction.

“**Quotation**” is any written proposal, offer, or agreement that sets out in reasonable detail the specific Services to be provided to Customer by MXNS Expert Partners Netherlands or its agents.

“**Privacy Legislation**” means all applicable Laws pertaining to the processing and handling of personal data in all pertinent jurisdictions, in particular the General Data Protection Regulation (GDPR) (EU) 2016/679.

“**Retention Period**” means the period of time beginning on the date the Services are performed and continuing for five (5) years thereafter, or such period of time as is otherwise required by applicable law for the retention of records pertaining to the Services.

“**Service Report**” means the agreed-upon form in which Deliverables are provided by MXNS Expert Partners Netherlands to Customer.

“**Services**” means the services to be provided to Customer by MXNS Expert Partners Netherlands or its agents pursuant to the Contract.

“**Software**” means an organized and structured set of instructions or symbols, directly or indirectly, capable of performing or obtaining a predefined function, task or result by means of an electronic information processing system. The term Software identifies any firmware, source code, protocol, development kit, library, documents, standard, form, architecture, language relating to the said Software.

“**Software Application**” means the Software and its related Database.

“**Software System**” means, collectively, any Software Application, the related Application Dashboard and Application Platform.

“**Third Party Content Providers**” means any and all persons or entities authorized by Customer to provide Customer Content.

## 2. Scope

2.1. Customer agrees that when Customer signs (including by electronic signature) or submits a Quotation or otherwise uses or engages MXNS Expert Partners Netherlands to provide Services, as the context requires, a Contract will be formed between Customer and MXNS Expert Partners Netherlands for the provision of the Services, and the provision of the Services will be governed exclusively by such Contract.

2.2. All Quotations entered into between Customer and MXNS Expert Partners Netherlands are irrevocable unless MXNS Expert Partners Netherlands agrees otherwise in writing.

2.3. If for any reason a Quotation is not signed by Customer, MXNS Expert Partners Netherlands is entitled to assume that a valid Contract pertaining to the subject matter of the Quotation has been formed when any conduct by Customer or Customer’s agents recognizes the acceptance of the Quotation and the existence of the Contract, including but not limited to (i) acceptance by Customer of the performance of any

Service by MXNS Expert Partners Netherlands for the benefit of Customer, (ii) performance by Customer of any registration or login operations required to access or use the Applications (as defined below), and/or payment by Customer of the service fees defined in the Quotation.

2.4. Once formed, the Contract represents the entire agreement between Customer and MXNS Expert Partners Netherlands and supersedes all negotiations, representations or agreements, written or oral, with the same purpose. In the event of any inconsistency, (i) the Quotation will prevail over the T&Cs (including the Service Appendices), and the Service Appendices will prevail over these general T&Cs and (ii) the Quotation and T&Cs (including the Service Appendices) will prevail over any terms and conditions included in Customer's purchase order or any other document unless otherwise expressly stated by MXNS Expert Partners Netherlands in writing. For the avoidance of doubt, under no circumstances will the Customer's standard terms and conditions (if any) attached to, enclosed with or referred to in any Quotation, purchase order or other document govern the Contract or be binding on MXNS Expert Partners Netherlands in any way whatsoever.

2.5. Nothing in these T&Cs prevents MXNS Expert Partners Netherlands from providing services similar to the Services to other clients, including potential competitors of the Customer.

### **3. MXNS Expert Partners Netherlands Standard of Care**

3.1. MXNS Expert Partners Netherlands shall perform the Services in a professional manner, using a reasonable degree of care and skill and diligence as expected of a professional performing services of a similar nature to the Services and under similar circumstances, consistent with applicable practices, Laws, and specifications approved by both parties.

3.2. The scope of the Services only covers areas expressly mentioned in the Contract. Thus, MXNS Expert Partners Netherlands exercises its duty to advise, if necessary, only in strict compliance with the provisions of the Contract.

3.3. MXNS Expert Partners Netherlands represents and warrants that it is a duly registered company and has the full right and authority to enter into and be governed by the Contract.

### **4. Service Reports and Deliverables**

4.1. Upon completion of the Services or otherwise in accordance with the delivery schedule set forth in the applicable Quotation, MXNS Expert Partners Netherlands shall deliver Deliverables and Service Reports to Customer in accordance with MXNS Expert Partners Netherlands' standard format and delivery method, or as otherwise specified in the Quotation. Communication of Deliverables and Service Reports by email, through Customer's online information portal, or through other digital means agreed upon between the parties shall constitute valid delivery of such Deliverables and Service Reports as of the date such information is sent, posted or otherwise transmitted by MXNS Expert Partners Netherlands.

4.2. Any Service Report or Deliverables furnished by MXNS Expert Partners Netherlands is furnished solely for the benefit of Customer; Customer may, however, direct MXNS Expert Partners Netherlands to provide Service Reports and Deliverables to third parties specified by Customer. Once a Service Report has been paid for, the contents of any such Service Report shall become the property of the Customer. No Service Report may be distributed or reproduced by Customer except in its entirety, and Customer shall not at any time misrepresent the content of any Service Report, Deliverables, or other information received from or relating to MXNS Expert Partners Netherlands or its work on behalf of, or its relationship with Customer.

4.3. MXNS Expert Partners Netherlands will communicate Deliverables and Service Reports only to persons and/or entities (including third parties) stipulated by Customer, unless disclosure is otherwise required

by law or by applicable regulatory and/or certification bodies. MXNS Expert Partners Netherlands is entitled to assume that such designated persons and/or entities are authorized to receive Deliverables and Service Reports until MXNS Expert Partners Netherlands is notified in writing otherwise.

4.4. In the event of a discrepancy between, on the one hand, raw data and information set forth in an Application or transmitted to Customer through an electronic data interchange system and, on the other hand, a final, signed copy of a Service Report (regardless of the means through which such Service Report is delivered), such Service Report will control.

4.5. Subject to applicable service charges set forth in Section 10.3 below, upon Customer's request MXNS Expert Partners Netherlands shall reissue or amend any Service Report previously delivered to Customer, provided that any such changes are limited to corrections or updates to Customer-provided background information which do not in any manner alter or otherwise impact the Deliverables.

### **5. Disclaimers**

5.1. The Deliverables and Service Reports are intended for use by persons having professional skill and training in the interpretation of such information. The Service Reports, Deliverables or other outcomes of Services provided by MXNS Expert Partners Netherlands may be tools to assist Customer to address regulatory compliance or other legal issues, but MXNS Expert Partners Netherlands is not acting as Customer's legal counsel, and nothing set forth in such Service Reports and Deliverables and other outcomes of the Services is intended as legal advice or the legal opinions of MXNS Expert Partners Netherlands. MXNS Expert Partners Netherlands disclaims and assumes no responsibility, and Customer hereby waives and releases MXNS Expert Partners Netherlands, its employees, agents and representatives from any and all liability resulting from (i) Customer's interpretation and/or use of any Deliverables or Service Reports that were properly rendered by MXNS Expert Partners Netherlands in accordance with the Contract, (ii) Customer's use or non-use of any Application Platform and any data or information in connection therewith, (iii) the tasks performed by the hired personnel provided to the Customer in and so far these tasks are performed under Customer's supervision and direction and, (iv) Services provided by third parties.

5.2. Deliverables and Service Reports are based only upon the information, materials, facilities and operations Customer or its suppliers provide or make available to MXNS Expert Partners Netherlands, and MXNS Expert Partners Netherlands shall have no liability (i) for any errors, deficiencies or omissions in any Services provided to Customer that are based on inaccurate or incomplete information provided to MXNS Expert Partners Netherlands, or (ii) for application of the Deliverables to other products, materials, facilities or operations which were not made available to MXNS Expert Partners Netherlands.

5.3. The Deliverables of the Services performed according to the Quotation are not predetermined or certain. The Deliverables are derived from scientific experiments, processes, observations, calculations and other analyses, each with an unknown outcome. MXNS Expert Partners Netherlands does not guarantee, either express or implied, that the Deliverables will reflect the particular outcome desired by Customer or demonstrate required acceptance thresholds or other quality criteria set out by Customer for its products and/or business.

### **6. Customer's acknowledgements and obligations**

6.1. Customer confirms that:

- (i) it has full right and authority to enter into and be governed by the Contract;

- (ii) it has sufficient and reasonable commercial knowledge and experience with respect to all Laws related to its products and business, and Customer is in material compliance with all applicable Laws;
- (iii) all Customer Content to be provided to MXNS Expert Partners Netherlands in connection with the Contract is free of any risk and does not and will not infringe or otherwise violate any third party intellectual property rights or applicable law; and
- (iv) Customer has all necessary authorizations, permissions, approvals and legal rights to provide the Customer Content for use by MXNS Expert Partners Netherlands and storage in any applicable Software System.

6.2. Customer assumes all risk, costs and responsibility for and any legal liability arising out of or relating to (i) the compliance of Customer and its products and business and the compliance by any and all Third Party Content Providers under any and all applicable Laws, (ii) all decisions regarding which Services are required related to Customer's products or business, (iii) Customer's use of the Deliverables, Service Reports or Software Applications, (iv) Customer's implementation of any action, including a withdrawal or recall of products based on the Deliverables, including interim or preliminary Deliverables, and (v) all Customer Content.

6.3. Customer shall allow MXNS Expert Partners Netherlands' employees, agents, and representatives access to its facilities as necessary to perform the Services and shall be responsible for providing a safe workplace and working conditions. Any hazardous or toxic materials to which MXNS Expert Partners Netherlands's employees, agents, or representatives may be exposed during the performance of the Contract shall be properly stored and labeled by Customer in accordance with applicable laws and regulations.

## **7. Management of Customer Content and Materials**

7.1. MXNS Expert Partners Netherlands shall retain copies of all Service Reports and Deliverables and other Customer Content stored within a Software System throughout the Retention Period. Within a reasonable period of time following submission of a written request by Customer at any time during the Retention Period, MXNS Expert Partners Netherlands shall deliver to Customer in raw data format any Customer Content uploaded and stored by Customer within a Software System, subject to the payment of the related fees. Upon the expiration of the Retention Period, MXNS Expert Partners Netherlands will have the right to destroy or otherwise dispose of any and all Service Reports and Deliverables and other Customer Content and records relating to the Services in its possession.

7.2. MXNS Expert Partners Netherlands shall have the unlimited right, free of charge or further consideration, to use and make available for third parties to use for scientific, research or development purposes, on a de-identified or aggregated basis, any Customer Content and anything contained in or created from Customer Content, or otherwise derived in connection with the Services; provided, however, that no such use shall identify Customer. MXNS Expert Partners Netherlands shall have the right to access, use, reproduce, store, process and distribute as desired and may make available to third parties the analytical and statistical information derived from such data.

## **8. Delivery, Performance Schedules and Turnaround Times**

8.1. Delivery dates, performance schedules and milestones, and other turnaround times for Services shall be as specified in the Quotation. If for any reason, MXNS Expert Partners Netherlands is not able to reach the delivery dates indicated in the Quotation, it shall inform the Customer as soon as possible.

8.2. Any delay for which Customer is responsible, including but not limited to delays in the delivery to MXNS Expert Partners Netherlands of samples or other materials or information required for the performance of Services, failure to timely communicate requirements for MXNS Expert Partners Netherlands personnel performing on-site Services, late payment of fees hereunder, or other lack of adequate cooperation, shall exempt MXNS Expert Partners Netherlands from any possible commitment or liability regarding turnaround, schedules, milestones, or delivery times.

8.3. At least seven days (7) days prior to any scheduled on-site visit by MXNS Expert Partners Netherlands personnel to a Customer facility, Customer shall notify MXNS Expert Partners Netherlands of any applicable health screening, vaccination, or other personal wellness requirements, limitations or restrictions for on-site visitors; provided, however, that if Customer is subject to a government mandate to implement any such requirements within a period of time that is less than seven (7) days, Customer shall notify MXNS Expert Partners Netherlands of such requirements as soon as reasonably possible. If Customer fails to disclose such information to MXNS Expert Partners Netherlands in a timely manner, and as a result, MXNS Expert Partners Netherlands is unable to dispatch qualified personnel meeting Customer's requirements to Customer's site on the scheduled date, MXNS Expert Partners Netherlands shall not be liable in any way for missed deadlines or turnaround times arising as a result of such delayed site visit.

## **9. Crisis Management Services and Other Support**

9.1. If Customer experiences a Crisis Situation and requests MXNS Expert Partners Netherlands' assistance to manage or otherwise address such Crisis Situation, MXNS Expert Partners Netherlands will designate certain of its personnel having expertise in the relevant area to (i) facilitate priority access for Customer to the applicable Services offered by MXNS Expert Partners Netherlands (ii) to provide Deliverables of such Services and other updates and reports to Customer as needed throughout the Crisis Situation, and/or (iii) to provide such other expert guidance, advice and analysis as MXNS Expert Partners Netherlands may be qualified to provide to assist Customer in the resolution of the Crisis Situation. Such services shall be considered to be outside of the Services set forth in the Quotation and will be subject to additional fees as specified in Article 10 below.

9.2. If, for any reason other than improper performance by MXNS Expert Partners Netherlands of the Services, Customer requests or otherwise causes (including by way of legal requirement) MXNS Expert Partners Netherlands to provide any type of Litigation Support, then MXNS Expert Partners Netherlands reserves the right to seek compensation from Customer as set forth in Article 10 below.

## **10. Fees and Expenses**

10.1. All fees for the Services shall be set forth in the Quotation, except as may be otherwise mutually agreed upon by the parties in writing.

10.2. MXNS Expert Partners Netherlands will increase its fees, pricing for additional activities, and/or travel and accommodation rates on an annual basis, effective as of the first day of each calendar year based on costs and trading environment and if necessary after the assignment. MXNS Expert Partners Netherlands is also authorized to modify the price for its Services and expenses in the context of each (partial) subsequent assignment. The prices provided by MXNS Expert Partners Netherlands for one (partial) assignment do not grant the Customer the right to negotiate the same price for subsequent (partial) assignments.

10.3. Unless otherwise stated in the Quotation, all prices for the Services are expressed in Euros, and all amounts payable are exclusive of tax and are increased by VAT at the rate applicable on the invoice issue date.



10.4. The prices mentioned in the Quotation are always exclusive of all costs incurred by MXNS Expert Partners from third parties that were reasonably necessary to fulfill the obligations that arise from the contract, and will be charged at cost.

10.5. After prior notice to Customer, prices may be increased during the performance of the Services in the event of a change in applicable regulations, industry standards, material increase in the cost of raw materials, or other factors beyond MXNS Expert Partners Netherlands' control which result in an increase in the cost of providing the Services.

10.6. Customer shall be responsible for all of the following costs and expenses, as applicable, regardless of whether such are specified in the Quotation:

- (i) Any costs, bank fees, or other services fees associated with the transfer of funds internationally;
- (ii) If Customer requires MXNS Expert Partners Netherlands to submit invoices through a third party billing system, any and all fees associated with MXNS Expert Partners Netherlands's use of such system;
- (iii) All reasonable expenses incurred by MXNS Expert Partners Netherlands for destruction, return, and/or transfer of Customer Content, confidential information, and other records provided in connection with the Services, and MXNS Expert Partners Netherlands shall invoice such costs to Customer;
- (iv) Any storage costs in the event that Customer requires storage of Customer Content or any other records provided in connection with the Services beyond MXNS Expert Partners Netherlands' standard retention term.
- (v) If termination or cancellation is attributable to the Customer and involves costs for MXNS Expert Partners Netherlands.

10.7. Any reissue or amendment of a Service Report at Customer's request in accordance with Section 4.5 above may be invoiced by MXNS Expert Partners Netherlands at a reasonable rate to be determined by MXNS Expert Partners Netherlands in its discretion.

## **11. Payment terms**

11.1. Unless otherwise stated in the applicable Quotation, Customer shall pay MXNS Expert Partners Netherlands for performance of the Services and all related expenses in accordance with MXNS Expert Partners Netherlands' invoices, which shall be paid within twenty (20) days of the date of invoice. Customer's failure to contest any invoice within fifteen (15) days prior to the due date shall be deemed as Customer's acceptance of the total amount of such invoice. No discounts shall be granted for early payment, and Customer shall not be entitled to reduce payment of invoiced amounts by any amounts due to Customer by MXNS Expert Partners Netherlands.

11.2. Any balance remaining unpaid after the due date may be automatically subject, without reminder or prior notice, to a service charge of an amount equal to the interest rate applied by the European Central Bank to its more recent financing operation plus ten percent (10%), which will run from the day following the due date until payment. In no event shall such charge exceed the rate permitted by applicable law. In addition, Customer shall pay a fixed rate fee for recovery of forty (40) euros without prejudice to MXNS Expert Partners Netherlands's right to suspend all outstanding orders and to request an additional refund if the actual recovery costs exceed the amount of this fixed rate fee.

11.3. Customer's failure to make payments within thirty (30) days of the date of invoice shall be deemed an event of default under these T&Cs, and all amounts owed by Customer will become immediately due and payable without prior notice, and MXNS Expert Partners Netherlands may, in its sole discretion, postpone, suspend or terminate the Contract and any outstanding Quotations. If legal action or collection proceedings

are necessary to enforce Customer's payment obligations, Customer shall be liable for MXNS Expert Partners Netherlands's costs of collection, including any collection agency retention costs, court costs and attorney's fees.

11.4. MXNS Expert Partners Netherlands reserves the right, at any time during the Contract, to require Customer to provide information on its solvency and/or satisfactory security for performance of Customer's obligations under the Contract. If Customer fails to furnish satisfactory information or security upon such request, MXNS Expert Partners Netherlands may, at its option, postpone or suspend further performance of Services or terminate the Contract and/or any outstanding Quotations.

## **12. Confidentiality**

12.1. All information of any type, discussed or disclosed, in writing, orally or visually, by MXNS Expert Partners Netherlands and/or Customer, as part of the negotiation or performance of the Contract or the Contract itself, including these T&Cs, are subject to the confidentiality obligations set forth herein for the duration of the Contract and the five (5) years following its termination for any reason. The confidential information of MXNS Expert Partners Netherlands expressly includes, without limitation, the Software Systems, any know-how and the Intellectual Property rights related thereto. The contents of any Service Report or Deliverables furnished by MXNS Expert Partners Netherlands shall be the confidential information of Customer.

12.2. Without prejudice to the right granted to MXNS Expert Partners Netherlands to use the Customer Content under these T&Cs, neither party may disclose, without prior written consent of the other party, the other party's confidential information to any third party, other than its duly authorized representatives, advisors, subcontractors, affiliates, employees or agents or accreditation body who have a need to know for the purpose of the Contract and who are bound by obligations substantially similar to those stated herein.

12.3. The confidentiality and non-use obligations hereunder shall not apply to information which (a) was in rightful possession of the recipient prior to transmission by the discloser; (b) was or became accessible to the public through no fault of the recipient; (c) the recipient receives in good faith from a third party entitled to disclose it; or (d) is independently developed by the recipient, without reference to information received hereunder. In the event that either party is required by mandatory reporting obligations, applicable law or regulation or by legal process to disclose any confidential information, such party shall provide the other party with prompt notice of such request, unless otherwise prohibited.

12.4. Notwithstanding any contrary provision, Customer authorizes MXNS Expert Partners Netherlands to retain in its confidential files (a) one hard copy of confidential information provided by Customer and/or one copy of any notes, reports or summaries written by MXNS Expert Partners Netherlands that includes Customer's confidential information, exclusively for recordkeeping purposes or as required by internal compliance policies, and (b) confidential information in electronic form for which extraction and deletion from MXNS Expert Partners Netherlands' system is difficult or technically impossible.

## **13. Intellectual property**

13.1. Unless prior written consent is obtained, the parties do not acquire any ownership rights over any Intellectual Property used by a party in connection with the Services. Except to the extent specifically set forth in these T&Cs or in a Quotation, no right to license whatsoever, either express or implied, is granted with respect to any Intellectual Property now or hereafter owned or controlled by Customer or MXNS Expert Partners Netherlands, and under no circumstances will Customer have any rights in or to any Software System except for (as applicable) a

limited license for use. The parties expressly reserve all rights not otherwise specifically granted hereunder or in a Quotation.

13.2. Customer shall not, without MXNS Expert Partners Netherlands' prior written consent, (i) use MXNS Expert Partners Netherlands' name, trademarks, or logo; (ii) use any Application, Deliverables or Service Report in any manner which may cause harm to MXNS Expert Partners Netherlands' reputation and/or its business; or (iii) use for commercial purposes any training materials that may be given to Customer and for which MXNS Expert Partners Netherlands retains the Intellectual Property rights.

13.3. Customer will retain intact and will not modify or remove any of MXNS Expert Partners Netherlands' or its accreditation bodies', licensors', or providers' trademarks, service marks, logos, copyright and/or trademarks designators or makings, or other ownership indicators from any Service Reports or other report forms, splash or display screens, printout pages, or other forms of retrieved data or displays of any Software System. In particular, no Service Report shall be altered such that any accreditation body trademark, appearing thereon is separated from the MXNS Expert Partners Netherlands name.

13.4. MXNS Expert Partners Netherlands and/or its third party providers and licensors, shall at all times retain ownership of all rights, title and interest in and to all Intellectual Property relating to the Applications, Application Platforms, Application Dashboards, and all enhancements, revisions, updates, modifications, supplements, interim works and derivative works thereto. From time to time, Customer may provide information to MXNS Expert Partners Netherlands on which MXNS Expert Partners Netherlands may partly rely to design, structure or develop a Development, and Customer hereby consents to MXNS Expert Partners Netherlands's use of such information to design, to structure or to determine the scope of such Developments. Customer may not claim any right of ownership or Intellectual Property rights over any such Developments, and any such Developments shall be and remain, the sole and exclusive property of MXNS Expert Partners Netherlands.

13.5. Customer expressly authorizes MXNS Expert Partners Netherlands to use it as a commercial reference for MXNS Expert Partners Netherlands' marketing purposes and, solely in connection with such marketing activities, to use and reproduce, without charge, Customer's name and logo in accordance with Customer's specifications; provided, however, that Customer shall be entitled to withdraw such consent at any time for any or no reason. Following termination of the Contract for any reason or earlier withdrawal of Customer's consent, MXNS Expert Partners Netherlands shall be permitted to continue using any printed format media that has been already printed before such termination or withdrawal and which include a reproduction of the Customer's name and/or logo. For any such use of Customer's name and/or logo made on its website, MXNS Expert Partners Netherlands undertakes to withdraw them within thirty (30) days following Customer's request.

#### **14. Limitation of liability**

14.1. The Software Systems described herein, as well as any updates, modifications and other materials, and services will conform to the specifications for a term equal to the warranty period stated in the Software Systems' user documentation. Except as stated in the foregoing sentence, the Software Systems described herein, as well as any updates, modifications and other materials, and services are provided to customer on an "as is" and "as available" basis without warranty of any kind. In addition, Customer expressly agrees that access to the Software Systems may be limited or unavailable during periods of peak demand, Software System upgrades, malfunctions, or scheduled or unscheduled maintenance or for other reasons.

14.2. MXNS Expert Partners Netherlands makes no warranties regarding, and disclaims all liability for, the acts or omissions of third

parties, any materials provided by third party licensors, hosts or partners, arrangements with third parties, or use of third party sites, systems or services.

14.3. Within the limits of what is allowed by law, MXNS Expert Partners Netherlands' liability to Customer for breach of this Contract, any implied warranties, or for any negligence or other wrongdoing in the performance of the Services or otherwise related hereto is limited, at the Customer's option, to either re-performing the Service challenged or refunding the total fee paid in respect of that part of the Service, provided that the Customer submits a written complaint to MXNS Expert Partners Netherlands as soon as possible but latest within 3 months of the occurrence of the breach or of the Customer becoming aware of the breach.

14.4. MXNS Expert Partners Netherlands will under no circumstances be liable, in any manner whatsoever, for any indirect, special, incidental, punitive or consequential loss or damage, including but not limited to costs of recovery or loss of business, data, revenue, profits, interest, opportunity, image or customers, suffered by the Customer or any third party however caused and based on any theory of liability including but not limited to, breach of contract, tort (including negligence) or violation of statute, whether or not MXNS Expert Partners Netherlands has been advised of the possibility of such damages.

#### **15. Indemnity**

15.1. MXNS Expert Partners Netherlands agrees to defend, indemnify and hold harmless Customer, its directors, officers, representatives, agents, employees and contractors from and against any and all Claims if MXNS Expert Partners Netherlands has received written notice thereof not later than six (6) months after the date of the Customer's knowledge of the relevant Claim which (i) is the proven direct result of MXNS Expert Partners Netherlands' willful misconduct or fraud in connection with the performance of the Services or (ii) Deliverables from a third party claim that any Application in unmodified form infringes or misappropriates such third party's proprietary intellectual property rights; provided, however, that the indemnity in this subparagraph (ii) shall not apply if the alleged infringement arises from: (A) use of Application other than within the applicable Software System; (B) use of any Application that has been modified or merged by Customer with other programs; (C) MXNS Expert Partners Netherlands following the designs, specifications or written instructions of Customer; (D) the use of any Application in combination with other Software or hardware not provided or approved by MXNS Expert Partners Netherlands; or (E) the Customer Content processed by or stored within the Application.

15.2. Customer agrees to defend, indemnify and hold harmless MXNS Expert Partners Netherlands, its affiliates and their respective officers, agents, employees, representatives and contractors from and against any and all Claims arising out of or relating to (except to the extent of any required indemnity of Customer by MXNS Expert Partners Netherlands pursuant to Section 10.1 above) (i) the performance of the Services in accordance with these T&Cs or any Quotation; (ii) Customer's use of any products reviewed or analyzed by MXNS Expert Partners Netherlands; (iii) the use of the Deliverables or Service Reports or any other data or analysis provided by MXNS Expert Partners Netherlands hereunder; (iv) any Customer Content; or (v) any unauthorized use of or access to the Software Systems.

#### **16. Personal data:**

16.1. The parties undertake to always process personal data in accordance with all applicable Privacy Legislation and these T&Cs. If one party considers that an instruction by the other party constitutes a breach of the Privacy Legislation, it should immediately notify the other party.

16.2. MXNS Expert Partners Netherlands may provide on Customer request the list of the technical and security measures taken to ensure the protection of the personal data processed.

16.3. For processing relating to the preservation of the commercial relationship, each party shall act as Controller. For processing as part of the performance of the Services, the Customer shall always act as Controller and MXNS Expert Partners Netherlands as Processor in compliance with the Privacy Legislation.

16.4. Description of the processing:

- (i) **Purpose of the processing:** MXNS Expert Partners Netherlands will process personal data solely for the purpose of performing the Services. MXNS Expert Partners Netherlands will act solely on behalf of and under the instructions of the Customer, on the basis of this Contract's content.
- (ii) **Description of personal data processed:** surname, name, postal address, email address, phone number, occupation, company, IP address.
- (iii) **Duration of the processing:** Processing is undertaken during the term of the Contract. In addition, personal data collected and processed will be stored and archived by MXNS Expert Partners Netherlands for a period equivalent to the legal storage obligations to which MXNS Expert Partners Netherlands is subject.
- (iv) **Transfer of personal data:** MXNS Expert Partners Netherlands shall not transfer any personal data to a country outside the Area of Origin, unless the Customer has expressly authorized such transfer in writing. Notwithstanding the above, MXNS Expert Partners Netherlands is expressly authorized to transfer personal data processed under the Contract to one or more of its affiliates, located or not within the Area of Origin, involved in the processing and more broadly in the performance of the Services. Data transfers outside the Area of Origin may only occur in accordance with the Privacy Legislation. Customer is informed that MXNS Expert Partners Netherlands uses affiliated or external service providers located in the United States and in other countries of the European Economic Area for storing and hosting some of its data and the operation of its CRM.
- (v) **Rights of the data subjects:** Data subjects have a right to access their personal data, request their rectification, or deletion, a right to object to processing and a right to be forgotten, a right to restriction of processing, to data portability and the right not to be subject to a decision based solely on automated processing (including profiling). Any request by the data subjects for the exercise of their rights must be sent to [dpo@mxns.com](mailto:dpo@mxns.com) and will be processed within a reasonable time.

## 17. **Ethics & Compliance**

17.1. Customer represents and warrants that (i) Customer is in material compliance with all applicable (a) export and data privacy laws and regulations of any relevant jurisdiction with respect to Customer's use of any Software Application and the related Software System, and (b) controlled substances laws and regulations of any relevant jurisdiction, such as the U.S. Controlled Substances Act (21 U.S.C. Ch. 13, § 801 et seq); and (ii) neither the Customer nor, to the knowledge of the Customer, any owner, director, officer, agent, employee, affiliate, or supplier of the Customer is named on any U.S. or EU government denied party list. Further, Customer shall not permit its users or suppliers to receive Services or access or use any Deliverables, Service Report, or Software System in a U.S. or EU embargoed country or in violation of any U.S. or EU export law or regulation.

17.2. Each party will comply with all applicable anti-corruption Laws, including, but not limited to the United States Foreign Corrupt Practices Act or the French Sapin 2 regulation, as each may be amended from time

to time, and shall adhere to the principles governing relationships among business partners as set forth in MXNS Expert Partners Netherlands's [Code of Conduct](https://www.merieuxnutrisciences.com/our-ethics-compliance-undertakings) posted at <https://www.merieuxnutrisciences.com/our-ethics-compliance-undertakings> or successor MXNS Expert Partners Netherlands website. Each party agrees that it has not received or been offered any illegal or improper bribe, kickback, payment, gift or item of value from the other party in connection with the Contract, excluding reasonable gifts and entertainment provided in the ordinary course of business.

17.3. In no event will either party be obligated under the Contract to take any action that it believes, in good faith, would cause it to be in violation of any Laws, rules, ordinances or regulations applicable to it.

17.4. If Customer is becoming aware of any violation or potential violation of applicable Laws or ethics standards pertaining to the Services or the relationship between the Parties, Customer shall report such violation to MXNS Expert Partners Netherlands on the dedicated platform available at <https://425389-wbp.console.smartglobal.com/>.

17.5. If necessary and in accordance with applicable law, MXNS Expert Partners Netherlands will cooperate with local, state, federal and international government authorities with respect to the Services.

17.6. Notwithstanding any other provision in these T&Cs, MXNS Expert Partners Netherlands may immediately terminate the Agreement and/or deny Services for noncompliance with applicable Laws or in the event any circumstance arises which MXNS Expert Partners Netherlands determines, in its sole discretion, could cause it to violate applicable Laws or otherwise presents a material risk to MXNS Expert Partners Netherlands's business or reputation.

## 18. **General conditions**

18.1. The Contract and any open Quotations may be terminated by MXNS Expert Partners Netherlands with thirty (30) days written notice. Either party may terminate the Contract and any open Quotations with immediate effect in the event of insolvency of the other party. If the Contract or any outstanding Quotations are terminated, MXNS Expert Partners Netherlands shall be paid in full for all Services performed through the termination date, and the Customer shall be provided with a report of Services conducted prior to termination.

If MXNS Expert Partners Netherlands terminates the Contract, it may at Customer, arrange the transfer to a third party, of the work that is still to be executed.

18.2. Customer may not delegate, assign or transfer all or part of the Contract without MXNS Expert Partners Netherlands' prior written consent. MXNS Expert Partners Netherlands may assign or transfer this Contract at any time, to any of its affiliates, provided such affiliate assumes MXNS Expert Partners Netherlands's obligations hereunder, thereby releasing MXNS Expert Partners Netherlands from any future obligations.

18.3. MXNS Expert Partners Netherlands may subcontract some parts of the Services to other qualified third parties, provided that such third parties comply with MXNS Expert Partners Netherlands' obligations as set forth herein. MXNS Expert Partners Netherlands is free to (i) decide which individual in or outside MXNS Expert Partners Netherlands's organization shall execute the Services and, (ii) how and with which resources the Service should be executed. Even if the Customer asked to assign a specific individual to execute the Services, MXNS Expert Partners Netherlands reserves the right to commission third parties to execute such Services.

18.4. The employee(s) of MXNS Expert Partners Netherlands remain under the management and supervision of MXNS Expert Partners Netherlands unless explicitly stipulated otherwise in the Quotation.

18.5. MXNS Expert Partners Netherlands shall not be liable for delays or other problems caused by force majeure events, unforeseen

circumstances, compliance with governmental requests, laws, regulations, or breakage or failure of equipment or apparatus, or any other event beyond the reasonable control of MXNS Expert Partners Netherlands.

18.6. It is not intended that any of the provisions of this Contract shall benefit, and it shall not be construed that these provisions benefit or are enforceable by, any other third parties.

18.7. The relationship between the parties hereunder is of independent contractor and principal and neither party can make a commitment on behalf of the other. No partnership, joint venture, agency, or mandate is created through the provision of the Services.

18.8. Each party, at its own expense, shall maintain adequate insurance coverage with respect to its responsibilities under the Contract.

18.9. Any modification to the Contract shall be done by a written agreement signed by the parties. The obligations set forth in Sections 6.1, 6.2, and Articles 2, 4, 5, 7, 12, 13, 14, 15, and 18 shall survive the termination of the commercial relationship between the parties.

18.10. In the event that any of the provisions of the Contract are or become null or void, such provisions shall be deemed to have been deleted from the Contract and the remaining provisions hereof shall remain valid and enforceable. If, at any time, MXNS Expert Partners Netherlands does not avail itself of any of these provisions, this shall not be construed as a waiver of the subsequent implementation of such provisions.

18.11. These T&Cs and the Services covered shall be governed by the laws of the Netherlands. If the parties can not settle any dispute amicably within fifteen (15) business days, then, any dispute shall be settled by judicial means. Any dispute shall be subject to the courts in whose jurisdiction MXNS Expert Partners Netherlands's registered office is located. The obligation to respect the above deadline is not applicable to emergency proceedings, provisional proceedings, summary proceedings or ex parte.



## Appendix A for Consultancy Services

This Appendix for Consultancy Services (the “**Consultancy Services Terms**”) is appended to the MXNS Expert Partners Netherlands General Terms and Conditions for Services available at <https://www.ktba.com/terms-and-conditions/> (the “**General T&Cs**”) and apply to all contracts for the performance of consultancy services by MXNS Expert Partners Netherlands (“**Consultancy Services**”). These Consultancy Services Terms and the General T&Cs are incorporated in their entirety into and form a part of any Quotation, proposal or agreement for Consultancy Services entered into between Customer and MXNS Expert Partners Netherlands. Capitalized terms not otherwise defined herein shall have the same meaning as ascribed to them in the General T&Cs.

### 1. Scope of Consultancy Service Terms

It is already understood that MXNS Expert Partners Netherlands’ liability is engaged only if a Quotation under the T&Cs has been signed. The parties will then be linked by a services provision agreement governed by the General T&Cs and the Consultancy Services Terms.

### 2. MXNS Expert Partners Netherlands Standard of Care

2.1. MXNS Expert Partners Netherlands will only adhere specific standards when carrying out the Services if:

- (i) the Customer has requested MXNS Expert Partners Netherlands in writing to observe such standards before the conclusion of the Contract, and;
- (ii) these specific standards are set forth in the Quotation.

2.2. If MXNS Expert Partners Netherlands requires information from Customer for the execution of the Consultancy Services, the term for the execution does not begin before the Customer has supplied MXNS Expert Partners Netherlands with the correct and complete information.

### 3. Scope of the assignment provided to MXNS Expert Partners Netherlands

Only if it is explicitly specified in the Quotation, the Services may encompass the provision of personnel under Customers’ supervision and direction. In such a case, MXNS Expert Partners Netherlands fulfills its obligations arising from the Contract towards Customer if [1] the personnel supplied by MXNS Expert Partners Netherlands possess the requisite educational qualifications and [2] the personnel are actually made available to Customer..

### 4. Non-solicitation

4.1. Unless the law provides otherwise, the Customer, the Customer’s subsidiaries, group undertakings, participating interests and/or the Customer’s actual or legally affiliated companies, persons and/or associations of persons are prohibited from:

- a) for the term the Services are provided and,
- b) for a period of one year after the termination of the Contract,
- c) regardless of the reason and cause of the termination of the Services,

to:

- (i) employ persons employed by MXNS Expert Partners Netherlands or to employ persons that left MXNS Expert Partners Netherlands’ employment less than one year prior to the time they performed Services for the Customer,

and/or:

- (ii) otherwise commission the persons mentioned under (i) to do work, paid or unpaid, at their companies and/or,
- (iii) to negotiate with the persons mentioned under (i) about the performance of tasks or work as referred to under (i) and/or (ii).

4.2. If the provisions of section 4.1. are violated, the Customer will incur an immediately payable fine, which is not subject to judicial mitigation, of fifty thousand (50,000) euros per violation and also two thousand (2,000) euros for every day the violation continues, without prejudice to MXNS Expert Partners Netherlands’ right to claim full compensation for loss and/or the discontinuation of the violation and without prejudice to MXNS Expert Partners Netherlands’ right to claim the fine arranged by contract with the employee.

4.3. The Customer has an obligation to MXNS Expert Partners Netherlands to inform the Customer’s subsidiaries, group undertakings, participating interests and/or the Customer’s actual or legally affiliated companies, persons and/or associations of persons of the provisions of sections 4.1. and 4.2.

4.4. The Customer is not permitted, without MXNS Expert Partners Netherlands’ specific, written consent, to make the persons who are providing the Services under the Contract for MXNS Expert Partners Netherlands available to third parties. If the Customer supplies personnel with MXNS Expert Partners Netherlands’ written consent, to third parties, the Customer should ensure that it registers in the Trade Register that the Customer’s operations (also) include supplying personnel.

4.5. By exception to the main rule set forth in this section 4.1 and 4.2, the Customer is entitled to enter into an employment relationship with an employee that would have been placed under Customer sole supervision and direction as long as this placement has lawfully ended.

4.6. A Customer intending to enter into an employment relationship with an employee must notify MXNS Expert Partners Netherlands in writing well in advance before taking any action on this intention. The Customer is familiar with the laws and regulations concerning successive employment and accepts all obligations arising from these. The Customer is responsible for the investigation and assessment of the employee’s employment history.

4.7. If the Customer enters into an employment relationship with an employee, who was placed at the Customer on the basis of an assignment for an indefinite term, before that employee has worked for 1040 hours on the basis of that assignment, the Customer owes MXNS Expert Partners Netherlands a fee of 25% of the latest rate applicable for 1040 hours less the hours already worked by the employee on the basis of the assignment. The fee will be increased by VAT. The fee is owed for the services provided by MXNS Expert Partners Netherlands in connection with the supply, recruitment or education of the employee in question

4.8. If the Customer enters into an employment relationship with an employee who was placed with it on the basis of a fixed-term assignment, the Customer owes a fee of 25% of the latest rate applicable for the remaining term of the assignment (calculated based on the agreed or customary hours and additional/overtime hours) or, in the case of an assignment that can be terminated before the expiry date, the notice period that was not observed, on the understanding that the Customer always owes at least the fee referred to in this provision.

4.9. The fee will be increased by VAT owed for the services provided by MXNS Expert Partners Netherlands in connection with the supply, recruitment or education of the employee in question

4.10. If the Customer does not enter into an employment relationship with the employee immediately after the end of the employee’s placement but does so within 6 months of that date, the Customer also owes the fee referred to in this section This applies both if the Customer contacted the employee for this purpose, directly or via third parties, and if the employee applied to the Customer, directly or via third parties.

### 5. Changes, cancellation or Postponement



5.1. If any changes or additions are made at the Customer's request or that are necessary in MXNS Expert Partners Netherlands's opinion and have an effect on the volume of the work agreed within the framework of the Quotation changes, e.g. contract extras, any additional work that arises from that will be invoiced in accordance with MXNS Expert Partners Netherlands' rates that are current at the time the work is executed. Insofar a fixed price has been agreed under a Quotation, the Customer will pay the fee for additional work. In the event that, in and to the extent that, the financial consequences of the additional work exceed the agreed fixed price by 10%, MXNS Expert Partners Netherlands shall inform the Customer in writing about the financial consequences for the additional work.

5.2. The Customer accepts that the arranged or expected time of completion of the Services, Service Report(s) and the mutual responsibilities of MXNS Expert Partners Netherlands and the Customer may be affected due to additions or changes to the Quotation.

5.3. In the event that the Customer postpone or cancel an assignment granted to MXNS Expert Partners Netherlands 72 hours before the Services originally had to be performed, MXNS Expert Partners Netherlands is empowered (i) to terminate the assignment and/or (ii) claim the full fee as agreed in the Quotation. MXNS Expert Partners Netherlands is not obliged to have that work caught up later free of charge.

5.4. Should the Customer, for any reason, terminate an assignment granted to MXNS Expert Partners Netherlands, MXNS Expert Partners Netherlands is authorized to invoice all work performed up to the termination date. This invoiced amount shall include an additional 30% markup, reflecting what MXNS Expert Partners Netherlands would have charged the Customer had the assignment not been prematurely terminated. In cases of a lawful termination, MXNS Expert Partners Netherlands will not exceed billing more than 100% of the amount specified in the Quotation. In the event of an unlawful termination of the assignment, MXNS Expert Partners Netherlands will invoice 100% of the amount agreed upon in the Quotation and reserves the right to seek compensation for damages from the Customer.

## **6. Pricing and Invoicing**

If any fees are required under the Quotation to be paid prior to the commencement of the Consultancy Services, at completion of the Consultancy Services by MXNS Expert Partners Netherlands, any such advance payment by Customer will be credited against the last invoice.

## **7. Miscellaneous**

During the course of performing the Consultancy Services, MXNS Expert Partners Netherlands may take pictures of the Customer's facilities.

## Appendix B for Digital Tools

This Appendix for Digital Tools (the “**Digital Tools Terms**”) are appended to the MXNS Expert Partners Netherlands General Terms and Conditions for Services available at <https://www.ktba.com/terms-and-conditions/> (the “**General T&Cs**”) and apply to all contracts for the provision of Digital Tools and performance of related services by MXNS Expert Partners Netherlands. These Digital Tools Terms and the General T&Cs are incorporated in their entirety into and form a part of any proposal or Contract for Digital Tools entered into between Customer and MXNS Expert Partners Netherlands. Capitalized terms not otherwise defined herein shall have the same meaning as ascribed to them in the General T&Cs.

### 1. Definitions

“**Account**” means the environment managed by the Customer, to which the Customer and the User(s) appointed by the Customer gain access after entering the Login Details;

“**Content**” means the content provided by MXNS Expert Partners Netherlands via an Account, either in the shape of a database or otherwise, to the Customer, including - but not limited to - Details from Riskplaza and RASFF, materials, information, documents, protocols and log files;

“**Details**” means all documents, details, data, information and content, including image and sound recordings, protocols, presentations, videos, images, interactive elements, log files and user data generated by means of the Software Application the Customer enters into and/or makes available to the Service by means of the Customer’s Account, for use by Users, etc.;

“**Emergency**” means the situation in which the access to, and the use of, the Software Application and/or the Service is fully impossible or impossible at critical points or in which the Software Application and/or the Service will become only partially available if action is not taken immediately.

“**Error**” means the substantial and reproducible non-performance of the Software Application and/or Service in accordance with their specifications and/or the interrupted or inadequate availability of the Service.

“**Login Details**” (i) a username assigned to each User and (ii) a unique password associated with each User’s username allowing the access to a Software System.

“**Module**” means a part of the Software Application for a specific functionality which the Customer can purchase from MXNS Expert Partners Netherlands by means of the Customer’s Account;

“**Office Hours**” means Monday to Friday from 9 a.m. to 5 p.m. with the exception of the public holidays legally recognised in the Netherlands;

“**Operating Time**” means the percentage of minutes in a month in which a Software System’s key components are operational;

“**QA Online**”, means an online real-time quality application developed for and by quality assurance managers in the food industry.

“**Recovery Time**” means the number of hours, during Dutch Office Hours, between the time MXNS Expert Partners Netherlands identifies an Error or the Customer reports and Error to MXNS Expert Partners Netherlands and the time at which the Error has been fully remedied.

“**Deliverable**” means all output of the Service, including quality and safety protocols, reports, graphs, diagrams and summaries compiled (by the Customer) by means of the Software Application, either using the Details and/or the Content or otherwise;

“**Response Time**” means the number of hours, during Dutch Office Hours, between the time the Customer reports and Error to MXNS Expert Partners Netherlands and the time MXNS Expert Partners Netherlands

gets back to the Customer.

“**Request for Change**” means a request submitted to MXNS Expert Partners Netherlands - by means of a Request or otherwise - to make a functional adjustment to the Software Application.

“**Request**” a question or request posed by the Customer that is not a report of an Error but is connected to the Service.

“**Riskplaza**” means an electronically accessible database that provides an overview of all types of hazards on ingredients and food contact materials. The database provides information about the hazards and which hazards should be taken into account.

“**Updates and Upgrades**” means the new versions of the Software Application developed by MXNS Expert Partners Netherlands, new functionalities and Modules and/or patches, bug fixes and other changes to the Software Application.

“**User**” means a natural person authorized by the Customer to have access to and to use (parts of) the Service via the Account;

The use of the singular or plural for the terms defined below or the use of those terms in a certain composition do not affect the application of the Digital Tools Terms.

### 2. Scope of Work

2.1. MXNS Expert Partners Netherlands provides to Customer, through this Contract, the Digital Tools specified in the applicable Quotation

2.2. If the User and MXNS Expert Partners Netherlands have agreed by private deed that the User may grant a sub-licence to specific third parties, the User should ensure that the rights and obligations of these Digital Tools Terms are also laid down in the Customer’s legal relationship with that third party for the User.

### 3. Grant

3.1. If the Customer fully fulfills its obligations arising from the Contract with MXNS Expert Partners Netherlands, MXNS Expert Partners Netherlands will grant the Customer a limited, personal, revocable, non-exclusive, non-sub-licensable and non-transferable right to remotely access and use the Service in accordance with the Contract, including the Software Application, the activated Module(s), the Deliverables and the Content, in accordance with the Contract.

3.2 The Digital Tools Terms are effective as of their signature and is concluded for twelve (12) months; after that term has expired, the Contract is renewed each time implicitly for the same term, unless one of the Parties cancels the Contract by means of a written notice sent to the other Party with due observance of a period of two (2) months before the renewal date.

### 4. Support

4.1. MXNS Expert Partners Netherlands provides support through the agency of the Customer’s project leader, as specified in the Quotation. The project leader will make every effort to offer help for the use of and the operation of the Software Application and for the use of the Service.

4.2. The Customer will give MXNS Expert Partners Netherlands the name of one User as a contact. In the event of an Error or a Request from the Customer, only that User may contact MXNS Expert Partners Netherlands’ project leader using the contact details specified in the Quotation. Other than the aforementioned User are not permitted to contact the project leader.

4.3. In the event the Customer is confronted with an Error in the Software Application or has a Request, the Customer should first make an effort to do all that may be reasonably expected of the Customer to remedy the Error or to deal with the Request before contacting the project

leader. In no circumstances whatsoever does the above give the Customer any authority to act in breach of the provisions of the Contract regarding the use of the Service.

4.4. If the Customer's efforts intended in article 4.3 do not solve the Error and/or the Request, the Customer - through the agency of the User mentioned in article 4.2 - may contact the project leader. In the event the Customer gets in touch by email, MXNS Expert Partners Netherlands' project leader will get back to the Customer within two (2) working days after the receipt of the email.

4.5. If the Customer's message concerns an Error, MXNS Expert Partners Netherlands will treat the Customer's message in accordance with the provisions of article 9. The project leader will inform the Customer by email as much as possible about:

- i. the priority level MXNS Expert Partners Netherlands has accorded to the message;
- ii. the solution proposed by MXNS Expert Partners Netherlands;
- iii. an indication of the Recovery Time for remedying the Error;
- iv. the reference by which the Request is known to MXNS Expert Partners Netherlands

4.6. The Customer guarantees that the User intended in article 4.2 can be reached and is available for questions and/or other requests from MXNS Expert Partners Netherlands within the context of remedying the Error for the full Recovery Time. If the User cannot be reached or is not available, or if the Customer does not meet a reasonable request from MXNS Expert Partners Netherlands within the context of remedying the Error, the Customer is no longer entitled to the remedies of the Error.

## 5. Service and availability

5.1. The Customer commissions MXNS Expert Partners Netherlands to supply the Service under the Contract. The Customer then receives a user right to the Software Application and the Content that is made accessible to the Customer.

5.2. MXNS Expert Partners Netherlands shall make every effort to ensure that the Service is provided with due care and in accordance with the arrangements and procedures laid down in the Contract. MXNS Expert Partners Netherlands supplies the Service on the grounds of a best-efforts obligation, unless and insofar it has been otherwise laid down in the Contract

5.3. Notwithstanding insofar it has otherwise been agreed in writing, MXNS Expert Partners Netherlands is not obliged to convert data, including Details and/or Deliverables or to make back-ups of Details, Deliverables and other data stored by the Customer using the Service.

5.4. The Customer agrees to grant and supply to MXNS Expert Partners Netherlands all access, assistance, data and materials MXNS Expert Partners Netherlands needs to be able to provide the Service. The Customer guarantees that all information is correct, complete and reliable, even if it comes from third parties. If the Customer fails to do that, there is a chance that MXNS Expert Partners Netherlands cannot provide the Service adequately. Moreover, it might lead to higher costs or expenses for the Customer.

5.5. The Customer acknowledges that the Service, including the Software Applications, the Modules and the Content, sold by MXNS Expert Partners Netherlands do not contain any Customer-specific features or functionalities. MXNS Expert Partners Netherlands is never obliged to agree to a request from the Customer to retain and/or add or develop Modules, functionalities or other features of the Software Application and/or Service.

5.6. MXNS Expert Partners Netherlands may implement Upgrades or Updates or make other changes to the content or scope of the Service and/or Software Application, whereby MXNS Expert Partners Netherlands is not obliged to change - either at the Customer's request or

otherwise - certain features or functionalities of the Service or to maintain, change or add to the Software Application. MXNS Expert Partners Netherlands will notify the Customer as soon as possible about the implementation of an Upgrade and/or Update. In the event the Service and/or Software Application, in the opinion of MXNS Expert Partners Netherlands, as a consequence of the change(s) is altered considerably in regard to the Service as defined in these Digital Tools Terms, MXNS Expert Partners Netherlands will inform the Customer, insofar possible, in advance.

5.7. MXNS Expert Partners Netherlands reserves the right to put the Service, Software Application, Module(s) and/or Content or one or more parts of them temporarily out of operation and/or limit its use if that is necessary, in MXNS Expert Partners Netherlands' opinion, for, but not limited to, preventive maintenances or to implement corrections or adjustments. MXNS Expert Partners Netherlands makes every effort to arrange for taking the Service, Software Application, Module(s) and/or Content or one or more parts of them out of operation outside office hours and to notify the Customer of it in advance. In case of emergencies, as a consequence of which the Service, Software Application, Module(s) and/or Content must be taken out of operation with immediate effect or partly taken out of operation, MXNS Expert Partners Netherlands will notify the Customer at the time most reasonably possible.

5.8. MXNS Expert Partners Netherlands reserves the right to put the Service, Software Application, Module(s) and/or Content or one or more parts of them temporarily out of operation and/or limit its use if the Customer fails to fulfill the Customer's obligations to MXNS Expert Partners Netherlands or if MXNS Expert Partners Netherlands fears that the Customer will fail to fulfill those obligations.

5.9. The full or partial non-availability of the Service, Software Application, Module(s) and/or Content as the consequence of one of the causes listed in 5.6 to 5.8 (inclusive) can never be considered an attributable failure in the fulfillment of MXNS Expert Partners Netherlands' obligations to the Customer and MXNS Expert Partners Netherlands can never be held responsible for costs or damage as a result.

5.10. Insofar use is made, within the Service, of Software Applications or programs of third parties, that use will be subject to the terms and conditions of those third parties in addition to the conditions of the Contract. If the conditions of those third parties do not apply to the Customer, the provisions of the Contract will apply. MXNS Expert Partners Netherlands does not accept any liability for the operation of the third parties' applications, programs or content.

## 6. Operating Time

6.1. MXNS Expert Partners Netherlands aims for an Operating Time of the Service of 99.5% of the time in twenty-four hours (24) per day, seven (7) days per week, all year round. MXNS Expert Partners Netherlands calculates the Operating Time per calendar year and does so as follows:  $P = (A - (O - M)) / A * 100$  in which:

<i>P</i>	= the percentage of Operating Time
<i>A</i>	= the total number of minutes per year
<i>O</i>	= the total number of non-availability minutes per year
<i>M</i>	= the total number of non non-availability minutes per year

6.2. Non-availability, as intended in the calculation included in article 6.1, only occurs if the full Service, including the Software Application and including all activated Modules, is not available.

6.3. Non-availability, for use that are out of the control of MXNS Expert Partners Netherlands or that are the consequence of force majeure, Emergencies or maintenance are not regarded as non-availability for the calculation of Operating Time.

6.4. With exception to evidence to the contrary, all availability and service levels measured by MXNS Expert Partners Netherlands are convincing evidence.

6.5. The Customer will always notify MXNS Expert Partners Netherlands of all circumstances that might affect the Service and its availability.

6.6. If the Operating Time is not achieved, only the legal remedies listed below apply.

6.7. If the Customer is of the opinion that the Operating Time is less than the Operating Time, the Customer may submit a request for compensation for a proportionate part of the payment invoiced or to be invoiced for that month by reason of the Contract according to the chart below.

Operating Time	Compensation for a percentage of the fees owed by the Customer for that year.
<99.50%	5% compensation
<95.00%	10% compensation

6.8. The request for compensation intended in article 6.7 should be reported in writing to MXNS Expert Partners Netherlands within seven (7) working days following the end of the month in question or the Error, depending on which occurs first, stating all relevant information.

6.9. If the Customer receives compensation more than four (4) times in one calendar year as mentioned above, the Customer may cancel the Contract; the Customer will not be eligible for compensation for damages for that or for a refund of fees already paid.

6.10. MXNS Expert Partners Netherlands will include all compensation owed on the grounds of the articles above in MXNS Expert Partners Netherlands' invoices. The compensation calculated by MXNS Expert Partners Netherlands is binding. If the Customer is of the opinion that no, or too little, compensation has mistakenly been included in the invoice, the Customer should notify MXNS Expert Partners Netherlands; MXNS Expert Partners Netherlands will investigate the Customer's complaint and pay the difference of the compensation owed without delay if the complaint is justified.

## 7. Account and Users

7.1. The Customer needs an Account to be able to use the Service. The Customer can arrange Accounts for the Users to be created by MXNS Expert Partners Netherlands by entering into a Quotation with MXNS Expert Partners Netherlands. The number of Accounts to be created may be subject to limitations. The Customer guarantees that the Service will only be used within the Customer's organization and/or by third parties within the context of their services to the Customer, only with the Customer's explicit (written) consent for that use and whose identities shall be communicated to MXNS Expert Partners Netherlands.

7.2. Customer shall manage access and maintain records pertaining to its Users and Third parties authorized Users in accordance with the MXNS Expert Partners Netherlands technical user guide applicable to the Software System.

7.3. The Users are responsible for keeping the Login Details confidential. It may only be changed following a request by the Customer or at the initiative of MXNS Expert Partners Netherlands Expert Partners Netherlands in case of breach and subject to previously informing the Customer. As soon as the Customer knows, or has reason to suspect, that the Login Details are in the hands of unauthorized parties, the Customer should notify MXNS Expert Partners Netherlands without delay, without prejudice to the Customer's own responsibility to take immediate and efficient action, such as changing the Login Details, etc.

7.4. The Customer may request MXNS Expert Partners

Netherlands to activate certain Modules so that the Customer can use the different functionalities of the Software Application by entering into a Quotation with MXNS Expert Partners Netherlands. The Customer is responsible for requesting a Quotation for a required Module and/or to terminate a Module that is no (longer) required in accordance with the Quotation. Modules are activated by MXNS Expert Partners Netherlands after payment has been received unless otherwise agreed between the Parties in writing.

## 8. Use of the Service

8.1. The Customer guarantees that the Customer, when using the Service, Software Application, Module(s) and/or Content:

- takes measures against viruses, Trojans, other forms of computer crime and/or (other) illegal use by User(s) or third parties;
- the Customer will not spread any viruses, Trojans, malware or other malevolent codes or files or send spam messages or will allow them to be spread or sent via the Customer's Users;
- will not do anything that could in any way lead to downtime or otherwise adverse effects for the (operation of the) Service and/or the Software Application;
- will not violate any (Intellectual Property) rights of Mérieux NutriSciences Netherlands nor third parties or otherwise act illegally and/or punishable by law;
- will not download or attempt to download any Software Application, or access or attempt to access any Software System source code;
- will not permit any unauthorized access or use of any Software System;
- will not act in breach of the Contract.

8.2. If MXNS Expert Partners Netherlands knows or suspects that the Customer or one of the Users is acting in breach of the provisions of the article 8.1 or otherwise breaches the Contract, MXNS Expert Partners Netherlands is entitled to give the Customer instructions which the Customer is obliged to follow. MXNS Expert Partners Netherlands is also entitled to (temporarily) suspend the access to the Service, Software Application, one or more Module(s) and/or Content, without prejudice to MXNS Expert Partners Netherlands' other rights and legal remedies. The Customer's payment obligation shall remain fully effective in such cases.

8.3. Customer agrees to provide such security as is necessary to prevent any unauthorized use of the Software System, including without limitation, by securing access to its computers and workstations and by implementing a user login policy to restrict access to the Software System to Users who have been assigned Login Details.

8.4. Customer shall not permit any unauthorized or unintended access or use of any Software System, and Customer agrees that it is ultimately responsible for ensuring compliance by its Users and other employees and Third Party Content Providers with Customer's use, access and other restrictions set forth herein and in the technical user guide applicable to the Software System.

8.5. Each party, as applicable, shall establish and maintain safeguards against the destruction, loss, or alteration of Customer Content, in its possession, which shall be no less rigorous than those data security policies in effect to protect that party's similar confidential and proprietary information.

8.6. Except with respect to commercially available applications commonly known as "web browser" software or other applications, Customer agrees not to use any software, program application or other device to access or log on to the Software System or to automate the process of obtaining, downloading, transferring or transmitting any content or information to or from the Software System. Customer agrees to use such versions and releases of web browser software as MXNS



Expert Partners Netherlands may indicate to Customer in writing from time to time.

## 9. Errors

9.1. MXNS Expert Partners Netherlands aims to remedy Errors in the Software Application insofar MXNS Expert Partners Netherlands has received a detailed message about the Errors in question, in accordance with the provisions of article 4.

9.2. If MXNS Expert Partners Netherlands identifies an Error or if the Customer calls MXNS Expert Partners Netherlands' attention to an Error, MXNS Expert Partners Netherlands will deal with that message as soon as possible and will accord a priority level to the Error. A selection will be made of the following priority levels:

Priority level	Consequences of the Error
1	The entire Software Application cannot be used by any User.
2	Part of the Software Application critical to company processes cannot be used or some Users cannot use all of the Software Application.
3	The Software Application can be used, but there is a problem with the usability of the parts that are not critical to the company processes.
4	The Software Application can be used, but there is a problem with the usability of the parts that are not critical to the company processes and secondary parts.

9.3. The following Response Times and Recovery Times apply to the following priority levels. The Response Time and consequently the Recovery Time start as of the time the Customer reports an Error during Office Hours, or - if the report is made outside office hours - as of the next working day and Office Hours:

Priority level	Response Time	Recovery Time
1	[2] Office Hours after the Customer's report	No more than [7] working days after the Customer's report
2	[1] working day after the Customer's report	No more than [7] working days after the Customer's report
3	[2] working days after the Customer's report	No more than [9] working weeks after the Customer's report

9.4. If and when necessary, MXNS Expert Partners Netherlands will delay remedying the Errors until a new version of the Software Application is put into operation.

9.5. MXNS Expert Partners Netherlands has the right to apply temporary solutions to the Software Application, including bypass connections and restrictions to avoid problems; that does not give the Customer the right, in any way, to one of the remedies intended in this Digital Tools Terms.

9.6. If a Recovery Time is exceeded by no more than eight (8) hours for a Priority Level 1 Error, the only remedy for the Customer is compensation of 5%, calculated by virtue of the Contract, of (a proportionate part) the payments charged or to be charged for that month and compensation of 5% for every instance a following period eight (8) hours, or a part of that period, is exceeded. The articles 6.8 to 6.10 (inclusive) apply by analogy to that compensation.

9.7. MXNS Expert Partners Netherlands is not obliged to remedy Errors of which MXNS Expert Partners Netherlands reasonably thinks they were caused by:

- changes the Customer has made to the Software Application;
- the operation of other software than the Software Application (e.g. the operating system or database software) or of hardware or other equipment belonging to the Customer.
- the use of the Software Application in combination with data belonging to the Customer that does not comply with the data format required for the Software Application.
- inappropriate use of the Software Application by the Customer; or
- not using one of the Updates supplied by Quality Software Company B.V. to the Customer.

9.8. In the event MXNS Expert Partners Netherlands does repair work to remedy the Error and establishes reasonably that the Error was not caused by the Software Application. MXNS Expert Partners Netherlands has the right to ask a fee for the time and materials spent for MXNS Expert Partners Netherlands's business rates and the Customer is obliged to pay the fee.

## 10. Updates and Upgrades

10.1. MXNS Expert Partners Netherlands puts all released and available Updates and Upgrades at the Customer's disposal as MXNS Expert Partners Netherlands' sees fit and always within the framework of the applicable release policy and arranged term of the Contract.

10.2. MXNS Expert Partners Netherlands will make every effort to keep the Software Application available for the Customer following the implementation of Updates and Upgrades. MXNS Expert Partners Netherlands is not obliged to pay any compensation for damage caused by (outage of the Software Application due to) the implementation of Updates or Upgrades or otherwise changing the Software Application and MXNS Expert Partners Netherlands is always entitled to uninstall an Update.

10.3. If an adjustment, Update or Upgrade results in a major change in the Software Application's functionality, MXNS Expert Partners Netherlands will notify the Customer in advance on MXNS Expert Partners Netherlands's website or by email. As the Software Application is supplied to several Customers, it is not always possible to decide not to implement a certain Update or Upgrade just for one Customer.

## 11. Back-ups

11.1. MXNS Expert Partners Netherlands makes every effort to make one (1) back-up of all Details in the Software Application every 24 hours by means of a method decided by MXNS Expert Partners Netherlands. The back-up is stored by MXNS Expert Partners Netherlands for ten (10) days. MXNS Expert Partners Netherlands does not guarantee that the back-up is always usable, complete or reliable. The back-up will be delivered "as is" and returned.

11.2. The Customer may request MXNS Expert Partners Netherlands to restore certain Details from the back-up within ten (10) after the removal of, or changes to, the Details. MXNS Expert Partners Netherlands will make every effort to restore the back-up within 5 working days. It is possible that the return of part of the Details from the back-up to the current data set is not possible if it leads to an inconsistent situation. MXNS Expert Partners Netherlands does not bear the responsibility or liability for Details not being available or being incomplete after returning them from a back-up.

11.3. MXNS Expert Partners Netherlands may charge a fee for the restoration of a back-up.

11.4. After the end of the Contract, MXNS Expert Partners Netherlands may destroy the back-up at any time. It is the Customer's responsibility to request a copy of the back-up Details before the end of the Contract.

## **12. Request for change**

12.1. The Customer may - by means of a Request or otherwise - submit a Request for Change to MXNS Expert Partners Netherlands. MXNS Expert Partners Netherlands is always entitled to accept or deny a Request for Change or otherwise for processing and to determine how it will be implemented in the Software Application, which MXNS Expert Partners Netherlands may decide at MXNS Expert Partners Netherlands' discretion. MXNS Expert Partners Netherlands is not obliged to observe any delivery period for a Request for Change, unless otherwise agreed.

12.2. MXNS Expert Partners Netherlands is entitled to ask for a fee for executing a Request for Change, to which end a Quotation will be concluded between MXNS Expert Partners Netherlands and the Customer. Payment of (part of) the fee by the Customer to MXNS Expert Partners Netherlands for executing a Request for Change never gives the Customer the right to an exclusive (user) right or other (privileges or) rights to the changes in the Software Application based on the Request for Change, unless the Parties have explicitly agreed otherwise in writing.

## **13. Payment**

13.1. If, in the course of a contract year/Service Period, additions regarding the purchased Modules and/or Users are made by the Customer, MXNS Expert Partners Netherlands will charge the fees owed for those additions on the basis of the Quotation directly to the Customer. In the next contract year, the additional Module(s) and/or User(s) will be included in the invoicing.

13.2. A decrease at the Customer's request in the number of Module(s) and/or User(s) purchased by the Customer never entitles the Customer to refunds of the fees paid.

13.3. The calculations made by MXNS Expert Partners Netherlands for the calculation of the fees owed by the Customer intended in the Quotation are binding, unless the Customer can demonstrate that they are actually incorrect.

## **14. Guarantees and indemnification**

14.1. Customer expressly acknowledges and agrees that the Software Systems described herein, as well as any updates, modifications and other materials are provided on an "as is" and "as available" basis without warranty of any kind.

14.2. MXNS Expert Partners Netherlands does not guarantee that the Service is not subject to interruptions or downtime. Full or partial downtime of the Service might be caused by (among other things) peak periods, an Internet connection outage or interruption in the telephone connection, by viruses, Trojans, other forms of computer crime and/or illegal use by User(s) and/or third parties or errors/faults. MXNS Expert Partners Netherlands will make every effort to remedy any faults in the Software Application and/or Module(s) in accordance with the Digital

Tools Terms. The solutions listed in the Digital Tools Terms are exclusively and only the Customer's solutions in the event of faults.

14.3. Customer shall only permit Customer Content for which Customer has all permissions, approvals and legal rights to be provided to MXNS Expert Partners Netherlands for use and storage within any applicable Software System, and Customer represents and warrants that all Customer Content provided by Customer in connection herewith does not and will not infringe or otherwise violate any third party intellectual property rights or applicable law.

## **15. Limitations of Liability**

15.1. The Customer is responsible for complying with all technical and functional requirements for the Use of the Service. The Customer bears the risk and responsibility for all use of the Service, Software Application, Module(s) and/or Content via the Customer's Account. The Customer will compensate MXNS Expert Partners Netherlands for all damage and costs arising from and/or related to the use of the Service by third parties via the Customer's Account. MXNS Expert Partners Netherlands cannot be held liable for the loss of, damage to, inaccuracies in and/or incompleteness of Details and/or Deliverables, and for all use of the Service by Users and third parties who have gained access to the Service. Customer guarantees that the Users and aforesaid third parties will observe the provisions of these Contract.

15.2. Neither MXNS Expert Partners Netherlands nor any other party involved in creating, producing or delivering the Software Application is liable for any damages arising out of the inability to use or the use by any person of the Software Application and the information contained therein, and Customer expressly acknowledges that use of any such information is not meant to be a substitute for advice provided by experts or other professionals.

15.3. MXNS Expert Partners Netherlands Expert Partners Netherlands uses commercially reasonable efforts to keep any regulatory information set forth in the Software Applications as accurate and complete as possible. Customer acknowledges, however, that food regulations are constantly evolving, and information contained in a Software Application may become out of date before MXNS Expert Partners Netherlands has the opportunity to update the Software Application.

15.4. MXNS Expert Partners Netherlands is not responsible for the purchase and/or adequate operation of the infrastructure of the Customer or of third parties, including mobile equipment, telephone facilities, hardware or software purchased by the Customer from third parties. MXNS Expert Partners Netherlands can never be held liable for damage or costs caused by errors in the transfer, the fact that the computer, data or telecommunication facilities, including the Internet, either belonging to third parties or otherwise, including but not limited the Internet and web browsers, (is) are fully or partially out of operation or not available (or the Software Application is fully or partially out of operation or not available in those facilities).

15.5. The Customer is responsible for checking the accuracy and completeness of the Deliverables and the Deliverables generated by means of the use of the Service. The Customer should frequently check the Deliverables and the Deliverables generated by means of the use of the Service. If the Customer is of the opinion that a certain Deliverables is erroneous, incomplete or not up-to-date, the Customer should notify MXNS Expert Partners Netherlands as soon as reasonably possible.

15.6. The Customer is responsible for assessing and verifying the suitability of the Content, Deliverables and/or activated Module or Module that is to be activated and used by the Customer for the purpose for which the Customer intends it.

15.7. In the event MXNS Expert Partners Netherlands discovers or is notified of a breach or potential breach relating to Customer Content,

MXNS Expert Partners Netherlands shall promptly notify the Customer and investigate such breach or potential breach. MXNS Expert Partners Netherlands shall inform the Customer of the results of any such investigation. MXNS Expert Partners Netherlands has no liability to Customer or any third party for any reason as a result of: (i) any unauthorized disclosure or access to Customer Content as a result of Customer's or an User's misuse of the Software System or loss or theft of any User's password or username; or (ii) any deletion, destruction, damage or loss of Customer Content caused by or at the direction of Customer or an User.

## **19. Miscellaneous**

19.1. The version of any communication received or stored by MXNS Expert Partners Netherlands is deemed the authentic version (including log files), with the exception of evidence to the contrary to be provided by the Customer.

19.2. The Parties shall always notify each other in writing of any change of name, postal address, email address, telephone number and, on request, bank account number, within a reasonable period.

## **16. Termination or Non-Renewal**

16.1. Upon any termination or non-renewal of this Contract, Customer and its Users shall no longer attempt to access or have access to the applicable Software System(s).

16.2. The Customer does not have any right to (part of) the fees already paid if the Contract is dissolved, suspended, discontinued or canceled.

16.3. After termination of the Contract, the Customer may request a non-recurrent delivery of the Details entered into the Service during use of the Service. MXNS Expert Partners Netherlands shall supply the Customer with the Details in a commonly used format so that the Details can be reasonably processed by the Customer. MXNS Expert Partners Netherlands is not subject to a (legally imposed) retention period of the data and Details entered into the Service by the Customer. In the event the Customer, on termination of the Contract, does not immediately indicate that the Customer wants the aforesaid transfer of the Details, MXNS Expert Partners Netherlands is entitled to remove and destroy Details that have been stored, modified, processed or otherwise entered into the Service with the aid of the Service without delay and without any advance notice.

16.4. In the event the Customer fails to fulfill the requirements set in the Contract, MXNS Expert Partners Netherlands is entitled to remove and destroy Details that have been stored, modified, processed or otherwise entered into the Service with the aid of the Service without delay and without any advance notice.

## **17. Ownership and Intellectual Property.**

17.1. Notwithstanding anything permitted on the grounds of imperative law, the Customer may not change, publish, multiply, reproduce, decompile or apply reverse engineering to, (parts of) the Software Application, the Module(s), the Deliverables and the Content. Furthermore, the Customer is not permitted to remove or bypass security measures or technical restrictions (of the use) of the Service, the Application and/or the Module(s).

17.2. If the Customer acts in breach of this article, the Customer shall owe MXNS Expert Partners Netherlands, per breach, without further warning or notice of default being required and without court intervention being required, an immediately payable fine of EUR 50,000.00 and a payable fine of EUR 2,000.00 for every day the breach continues, without prejudice to the exercise of other rights accorded to MXNS Expert Partners Netherlands, including, but not limited to, claiming compensation for damage and the powers listed in MXNS Expert Partners Netherlands General T&Cs.

## **18. Cookies**

18.1. MXNS Expert Partners Netherlands will use cookies and store them locally on the Customer license holders' hardware.

18.2. The personal data obtained through these cookies will be processed in order for MXNS Expert Partners Netherlands to improve the user experience of the Software System and maintain the Software System security and protection.

## Appendix C for Labeling Services

These Supplemental Terms and Conditions for Labeling Services (the “**Labeling Services Terms**”) are appended to the MXNS Expert Partners Netherlands General Terms and Conditions for Services available at <https://www.ktba.com/terms-and-conditions/> (the “**General T&Cs**”) and apply to all contracts for the performance of food label and regulatory compliance services (“**Labeling Services**”) by MXNS Expert Partners Netherlands. These Labeling Services Terms and the General T&Cs are incorporated in their entirety into and form a part of any proposal or agreement for Labeling Services entered into between Customer and MXNS Expert Partners Netherlands. Capitalized terms not otherwise defined herein shall have the same meaning as ascribed to them in the General T&Cs.

The Service provided by MXNS Expert Partners Netherlands only consists in a label check (“**Label Check**”) meaning the verification of the labeling in accordance with the Laws and legal requirements for food safety in the country selected by the Customer at the time the Service Report is sent. MXNS Expert partners Netherlands does not assess, within the context of the Label Check, whether or not the Customers’ label complies with Laws of the country selected by the Customer and/or whether or not, the information on the label exposes the Customer to claims by third parties”.

### 1. Timing

If MXNS Expert Partners Netherlands requires information from Customer for the execution of the Labeling Services, the term for the execution does not begin before the Customer has supplied MXNS Expert Partners Netherlands with the correct and complete information.

### 2. Cancellation or Postponement

2.1. In the event that the Customer postpone or cancel, less than 72 hours before the beginning of a Labeling Service, an assignment granted to MXNS Expert Partners Netherlands, MXNS Expert Partners Netherlands is empowered to terminate the assignment. MXNS Expert Partners Netherlands shall then be entitled to charge the Customer a fee equivalent to 30% of the amount MXNS Expert Partners Netherlands and Customer agreed to in the Quotation..

2.2. Should the Customer, for any reason, terminate an assignment granted to MXNS Expert Partners Netherlands, MXNS Expert Partners Netherlands is authorized to invoice all work performed up to the termination date. This invoiced amount shall include an additional 30% markup, reflecting what MXNS Expert Partners Netherlands would have charged the Customer had the assignment not been prematurely terminated. In cases of a lawful termination, MXNS Expert Partners Netherlands will not exceed billing more than 100% of the amount specified in the Quotation. In the event of an unlawful termination of the assignment, MXNS Expert Partners Netherlands will invoice 100% of the amount agreed upon in the Quotation and reserves the right to seek compensation for damages from the Customer.

2.3. Customer agrees that amounts specified above constitute a reasonable measure of damages given the nature of the losses that may result, and any such payments are not intended to serve as punishment for any such action by Customer.

### 3. Contract Extras

3.1. If any changes or additions are made at the Customer’s request or that are necessary in MXNS Expert Partners Netherlands’s opinion and have an effect on the volume of the work agreed within the framework of the Service Order changes, e.g. contract extras, any additional work that arises from that will be invoiced in accordance with MXNS Expert Partners Netherlands’ rates that are current at the time the work is executed. Insofar a fixed price has been agreed under a Service Order,

MXNS Expert Partners Netherlands shall inform the Customer in writing about the financial consequences for the additional work intended.

3.2. The arranged or expected time of completion of the Service Report(s) and the mutual responsibilities of MXNS Expert Partners Netherlands and the Customer may be affected due to additions or changes to the Service Order.

### 4. Service Reports

4.1. If Customer has designated in the Service Order a third party entitled to receive copies of MXNS Expert Partners Netherlands’ Service Reports or Deliverables (each, a (“**Third Party**”), then the reception of any report by Third Party is not contingent on the content of the report or any consideration by Customer of good or poor performance, and that such report shall be sent to Third Party at the same time it is sent to Customer.

4.2. Any Service Reports and Deliverables and other outcomes of the Labeling Services provided to Customer shall be based on information supplied by the Customer, its vendors, and their respective representatives to MXNS Expert Partners Netherlands, and any information and analysis regarding regulatory compliance shall be based on the laws and regulations in effect as of the date of the applicable Service Report or Deliverables. MXNS Expert Partner Netherlands can rely on the understanding that information provided to MXNS Expert Partner Netherlands by Customer’s authorized third parties, designated by the Customer in the course of executing an assignment, has been coordinated with the Customer by those Customer authorized third parties and is also accurate and complete. MXNS Expert Partners Netherlands will not perform any Testing Services or any analysis on the products whose label shall be checked.

4.3. MXNS Expert Partners Netherlands is not responsible for erroneous reports due to inaccurate or incomplete information provided by the Customer.

4.4. Any amendments or changes in the interpretation of the current legislation or regulations or other relevant changes following the delivery of the Service Report are not included in the Contract and/or Labeling Service, and MXNS Expert Partners Netherlands shall not be liable for such.

4.5. MXN Expert Partners Netherlands is not obliged to investigate, unless this obligation is explicitly included in the Quotation (a) whether more than one language is spoken in a country and; (b) in which language the label should be composed;

4.6. After the delivery of the Service Report, MXNS Expert Partners Netherlands is not obliged to inform Customer of amendments to the laws or regulations that could make the Deliverables or Service Report previously delivered to Customer invalid, and MXNS Expert Partners Netherlands is no longer obliged to monitor Customer’s labels for compliance.

4.7. The recommendations provided in the Service Report are expressed according to professional standards in order to ensure their clear evaluation, in accordance with the regulations and best practices in force at the date of issue of the Service Report.

4.8. The total, cumulative liability of MXNS Expert Partners Netherlands will never exceed two thousand and five hundred (2,500) euros per Label Check.

4.9. MXNS Expert Partners Netherlands liability due to corruption, destruction or loss of the Customers’ labels, reports, files, information, documents or other information carriers is excluded, Unless they are caused by gross negligence or intentional misconduct on the part of MXNS Expert Partners Netherlands.



4.10. The Service Report contains the results of the Label Check. The Service Report is solely intended for the creation of a label.

4.11. MXNS Expert Partners Netherlands only performs a Label Check. By conducting a Label Check, MXNS Expert Partners Netherlands does not render an opinion on whether the Customer is in compliance with all legal requirements and Laws applicable to Customer's products, production methods, services, and business operations. Customer is advised to consult a properly qualified, knowledgeable attorney or other legal expert who is fully aware of Customer's particular circumstances to assess the legal impact of using the label on Customers' business operations.

## **5. Intellectual Property**

Any copyright rights related to the content of the Deliverables that may have been created by MXNS Expert Partners Netherlands specially for the Customer in the course of the Services, is assigned to Customer. Customer will then have the right to use, reproduce, adapt this content on any support, with any means, for whatever need especially for the accomplishment of any required formalities and procedures, for all the duration of the copyright, free of charge or not, all over the world.

## Appendix D for Training Services

This Appendix for Training Services (the “**Training Services Terms**”) are appended to the MXNS Expert Partners Netherlands General Terms and Conditions for Services available at <https://www.ktba.com/terms-and-conditions/> (the “**General T&Cs**”) and apply to all contracts for the performance of training services by MXNS Expert Partners Netherlands (“**Training Services**”). These Training Services Terms and the General T&Cs are incorporated in their entirety into and form a part of any proposal or agreement for Training Services entered into between Customer and MXNS Expert Partners Netherlands. Capitalized terms not otherwise defined herein shall have the same meaning as ascribed to them in the General T&Cs.

### 1. Scope

1.1. The Training Services may include standard courses/programmes for which the Customer enrolls that are intended for groups and/or online learning processes and/or other meetings of any kind organized by MXNS Expert Partners Netherlands for the purpose of disseminating knowledge (each, a “**Course/Programme**”).

1.2. The agreement between MXNS Expert Partners Netherlands and the Customer for attending a Course/Programme is formed when the Customer sends the (electronic) enrolment or application form for that purpose or, if the Customer has applied by other means, when MXNS Expert Partners Netherlands has confirmed the Customer’s application by telephone or electronically in writing.

1.3. MXNS Expert Partners Netherlands is authorized at any time to (a) change the content of any Course/Programme mid-term for reasons of improving the quality of the Course/Programme; (b) to change the schedule of the Course/Programme as regards the location and time; and (c) to decide the size of the group and to arrange the composition of the group as MXNS Expert Partners Netherlands sees fit.

1.4. The teaching materials provided by MXNS Expert Partners Netherlands in connection with any Training Services are only suitable for schooling or educating the Customer and/or students. Every other use by Customer is prohibited.

1.5. Upon completion of any Course/Programme, MXNS Expert Partners Netherlands may, where appropriate, issue a diploma or other certificate to the Customer and/or the student; provided, however, that MXNS Expert Partners Netherlands may, in its discretion, condition the issuance of such diploma or certificate upon the Customer’s and/or the student’s score, grade, or other outcome of any examination administered by MXNS Expert Partners Netherlands in connection with such Course/Programme.

1.6. If the Training Services consist of providing E-Learning:

- (i) MXNS Expert Partners Netherlands will make available to the Customer a login code with which the Customer can access the electronic teaching material;
- (ii) MXNS Expert Partners Netherlands shall make the electronic teaching material available to the Customer for a period of 12 months after giving the Customer the login code, and, upon expiration of such 12-month period, the Customer’s right to read the electronic teaching material will lapse and MXNS Expert Partners Netherlands shall no longer be obligated to make the teaching material available to the Customer and/or the student;
- (iii) The Customer shall be responsible for ensuring that the Customer has appropriate equipment with which the electronic teaching material can be read, and MXNS Expert Partners Netherlands shall not be obligated to ensure that the equipment used by the Customer is suitable for reading the teaching material;
- (iv) The electronic teaching material is supplied in Dutch, and if the Customer wishes to have the teaching material supplied in a

different language, MXNS Expert Partners Netherlands is authorized to charge the Customer for all costs of translation and adaptation of the teaching material; and,

- (vi) Helpdesk and questions about E-learning may be provided by MXNS Expert Partners Netherlands in Dutch and/or English.

1.7. The Customer is authorized, up to 14 days after placing the first contract with MXNS Expert Partners Netherlands, to request that the General Terms and Conditions of the Dutch Council for Training and Education (“**NRTO Conditions**”) apply to the Contract, with the exception of Article 9, 15 and 16 of the NRTO Conditions. In such a case, the NRTO Conditions will apply together with these Training Services Terms and the General T&Cs. The following provisions of the Training Services Terms and the General T&Cs have prevalence over the provisions of the NRTO Conditions and replace or supplement the NRTO Conditions: If the NRTO Conditions apply, or their application has been requested by the Customer in due time, those conditions only apply to the Training Services executed, and to be executed, by MXNS Expert Partners Netherlands. The General T&Cs apply to all other work executed by MXNS Expert Partners Netherlands and have prevalence over the NRTO Conditions.

### 2. Termination

2.1. The Customer has the right to terminate the Contract or any Training Services provided for in a Quotation at any time in writing, subject to specified cancellation periods and certain cancellation fees and administration costs which will be charged to the Customer as set forth in Section 5.

2.2. If a student designated by the Customer (instead of the Customer), cancels or changes the dates of a Course/Programme or other Training Service, that designated student is deemed to be authorized to represent the Customer.

2.3. MXNS Expert Partners Netherlands has the right to (a) terminate the Contract or any Training Services provided for in a Quotation, (b) cancel any scheduled Course/Programme, (c) reject new applications for a current Course/Programme, or (d) refuse the attendance by a Customer or a (replacement) student designated by the Customer without stating the reasons. In any such case, Customer and enrolled students, as applicable, will receive notice, and the Customer has a right to a refund of the full sum paid to MXNS Expert Partners Netherlands in connection with the affected Services. Such a cancellation does not signify a failure in the fulfillment of the Contract and does not create any obligation to pay compensation for damages. If and insofar as it is decided in a court of competent jurisdiction that MXNS Expert Partners Netherlands has failed in the fulfillment of the Contract by canceling a Course/Programme or other Training Service, the damages arising from any such decision shall be limited to the refund of the sum paid by the Customer to MXNS Expert Partners Netherlands for the canceled Course/Programme or other Training Service.

### 3. Effect of Cancellation/Postponement

3.1. If the Customer cancels or changes the date on which a scheduled Course/Programme is to be held, MXNS Expert Partners Netherlands may charge, and the Customer shall be obligated to pay, the following fees plus any expenses incurred by MXNS Expert Partners Netherlands as of the cancellation or change date:

- (i) If the Customer cancels the Course/Programme or changes the dates up to 4 weeks before the Course/Programme is to start, the Customer is obliged to pay 10% of the agreed Contract price for administrative costs (with a maximum limit of EUR 200.00 not

including VAT, for each day the Course/Programme was canceled or postponed);

- (ii) If the Customer cancels the Course/Programme or changes the dates between 4 and 2 weeks before the Course/Programme is to start, the Customer is obliged to pay 50% of the agreed Contract price; and
- (iii) If the Customer cancels the Course/Programme or changes the dates within 2 weeks before the Course/Programme is to start, the Customer is obliged to pay 100% of the agreed Contract price.

3.2. If the Training Services consist of coaching individual persons and the Customer or the student designated by the Customer cancels or changes the date of a coaching session upon less than 4 business days notice before the coaching session is scheduled to start:

- (i) If the cancellation or change is made between 2 and 4 business days before the coaching starts, 50% of the agreed price will be charged; and
- (ii) If the cancellation or change is made within 2 business days before the coaching starts, 100% of the agreed price will be charged.

If the Customer partially cancels the coaching session, it is regarded as a change to the coaching Contract.

3.3. If Customer wishes to postpone or cancel the Training Services, Customer must notify MXNS Expert Partners Netherlands in writing. If MXNS Expert Partners Netherlands receives Customer's notice within 16 to 30 business days of the confirmed Service date, Customer will be charged a postponement/cancellation fee in an amount equal to 70% of the Service fee. If MXNS Expert Partners Netherlands receives Customer's notice within 15 business days (or less) of the confirmed Service date, the postponement/cancellation fee will increase to an amount equal to 100% of the Service fee. In addition to the postponement/cancellation fee, MXNS Expert Partners Netherlands will charge Customer any travel expenses already incurred.

3.4. All cancellation or postponement fees and costs are due and payable from the time of the cancellation or change.

3.5. The actual damages likely to result from cancellation or postponement of scheduled Training Services are difficult to estimate on the date hereof and would be difficult for MXNS Expert Partners Netherlands to quantify insofar as cancellation or postponement may impact MXNS Expert Partners Netherlands' reputation or require MXNS Expert Partners Netherlands to provide non-monetary concessions to its suppliers and contractors. MXNS Expert Partners Netherlands commits that amounts specified above constitute a reasonable measure of damages given the nature of the losses that may result, and any such payments are not intended to serve as punishment for any such action by the Customer.

#### **4. Timing**

4.1. Student lists must be received at least 15 business days prior to the course date to allow sufficient time for the printing and shipping of course materials.

4.2. The Customer or the student designated by the Customer may replace the enrolled student with a different student for attendance of a Course/Programme or coaching session, if MXNS Expert Partners Netherlands is notified of the replacement in writing (including by email) within 48 hours before the Course/Programme or coaching session starts; provided, however, that the Customer shall be responsible for all costs and expenses incurred by MXNS Expert Partners Netherlands in connection with such substitution.

4.3. Course materials will be shipped to the Customer's facility 5-7 days prior to the course date. There will be an expedited shipping surcharge for Quotations signed less than two weeks prior to the course date.

#### **5. Fees and Price Adjustments**

5.1. At completion of the Training Services by MXNS Expert Partners Netherlands, any advance payment by Customer will be credited against the last invoice.

5.2. All out of pocket travel expenses and subsistence costs will be invoiced back to the Customer, subject to such rates, conditions and guidelines as may be set forth in the Quotation.

5.3. The books, if any, on the reading list recommended to students for a Course/Programme are not included in the price of the Training Services, unless specifically set forth in the Quotation or otherwise arranged in writing.

5.4. Costs of actors, models, specific (theater) equipment, specific music choices, specific voice-overs or translations, etc., are not included in the price of any Training Services unless specifically set forth in the Quotation, and such costs will be invoiced separately.

5.5. MXNS Expert Partners Netherlands is not obliged to incorporate any Customer corporate-identity features into the teaching materials provided in connection with the Training Services. If MXNS Expert Partners Netherlands incorporates Customer corporate-identity features into the teaching material at the Customer's request, the work involved is not included in the price of the Training Services and will be invoiced separately.

#### **6. Non-solicitation**

6.1. Unless the law provides otherwise, the Customer, the Customer's subsidiaries, group undertakings, participating interests and/or the Customer's actual or legally affiliated companies, persons and/or associations of persons are prohibited from:

- a) for the term the Services are provided and,
- b) for a period of one year after the termination of the Contract,
- c) regardless of the reason and cause of the termination of the Services,

to:

- i) employ persons employed by MXNS Expert Partners Netherlands or to employ persons that left MXNS Expert Partners Netherlands' employment less than one year prior to the time they performed Services for the Customer

and/or:

- ii) otherwise commission the persons mentioned under (i) to do work, paid or unpaid, at their companies and/or,
- iii) to negotiate with the persons mentioned under (i) about the performance of tasks or work as referred to under (i) and/or (ii).

6.2. If the provisions of section 6.1. are violated, the Customer will incur an immediately payable fine, which is not subject to judicial mitigation, of fifty thousand (50,000) euros per violation and also two thousand (2,000) euros for every day the violation continues, without prejudice to MXNS Expert Partners Netherlands' right to claim full compensation for loss and/or the discontinuation of the violation and without prejudice to MXNS Expert Partners Netherlands' right to claim the fine arranged by contract with the employee.

6.3. The Customer has an obligation to MXNS Expert Partners Netherlands to inform the Customer's subsidiaries, group undertakings, participating interests and/or the Customer's actual or legally affiliated companies, persons and/or associations of persons of the provisions of sections 6.1. and 6.2.

6.4. The Customer is not permitted, without MXNS Expert Partners Netherlands' specific, written consent, to make the persons who are providing the Services under the Contract for MXNS Expert Partners Netherlands available to third parties. If the Customer supplies personnel with MXNS Expert Partners Netherlands' written consent, to third parties, the Customer should ensure that it registers in the Trade Register that the Customer's operations (also) include supplying personnel.

6.5. By exception to the main rule set forth in this section 6.1 and 6.2, the Customer is entitled to enter into an employment relationship with an employee that would have been placed under Customer sole supervision and direction as long as this placement has lawfully ended.

6.6. A Customer intending to enter into an employment relationship with an employee must notify MXNS Expert Partners in writing well in advance before taking any action on this intention. The Customer is familiar with the laws and regulations concerning successive employment and accepts all obligations arising from these. The Customer is responsible for the investigation and assessment of the employee's employment history.

6.7. If the Customer enters into an employment relationship with an employee, who was placed at the Customer on the basis of an assignment for an indefinite term, before that employee has worked for 1040 hours on the basis of that assignment, the Customer owes MXNS Expert Partners a fee of 25% of the latest rate applicable for 1040 hours less the hours already worked by the employee on the basis of the assignment. The fee will be increased by VAT. The fee is owed for the services provided by MXNS Expert Partners Netherlands in connection with the supply, recruitment or education of the employee in question

6.8. If the Customer enters into an employment relationship with an employee who was placed with it on the basis of a fixed-term assignment, the Customer owes a fee of 25% of the latest rate applicable for the remaining term of the assignment (calculated based on the agreed or customary hours and additional/overtime hours) or, in the case of an assignment that can be terminated before the expiry date, the notice period that was not observed, on the understanding that the Customer always owes at least the fee referred to in this provision. The fee will be increased by VAT owed for the services provided by MXNS Expert Partners Netherlands in connection with the supply, recruitment or education of the employee in question

6.9. If the Customer does not enter into an employment relationship with the employee immediately after the end of the employee's placement but does so within 6 months of that date, the Customer also owes the fee referred to in this section. This applies both if the Customer contacted the employee for this purpose, directly or via third parties, and if the employee applied to the Customer, directly or via third parties.