

# **METHTESTNOW TERMS AND CONDITIONS**

## **1. DEFINITIONS**

- 1.1 "Approved Customer" means a Customer pre-approved by us to whom credit will be given.
- 1.2 "Price" means the cost of the Services specified on the Website from time to time.
- 1.3 "Property" means that property in respect of which you engage our Services.
- 1.4 "Results" means the results produced from the Testing of the Property.
- 1.5 "Services" means all services supplied by us to you, including, but not limited to, the Testing and providing associated analysis and reports.
- 1.6 "Terms" means these terms and conditions and includes any variations or amendments to these terms and conditions.
- 1.7 "Testing" means the testing methods employed by us to test the Property for the presence of methamphetamine.
- 1.8 "Website" means the website located at <http://www.methtestnow.co.nz>.
- 1.9 "Us", "our" and "we" refers Methtestnow Limited as trustee of the Methtestnow Trading Trust.
- 1.10 "You" or "your" means the person or entity receiving the Services from us and includes their successors and assigns.

## **2. ACCEPTANCE**

- 2.1 Any instructions received by us from you through the Website for the supply of Services and/or, if applicable, the written or verbal acceptance of any quotation provided by us to you shall constitute acceptance of these Terms.
- 2.2 These Terms shall govern the supply of Services by us to you. If there is any conflict or inconsistency between these Terms and the terms of any other document issued by either us or you in respect of the Services these Terms will prevail (unless we direct otherwise).

## **3. BOOKING PROCESS**

- 3.1 Upon completion of the booking process through the Website, and confirmation of payment (unless you are an Approved Customer) we will provide the Services to you.
- 3.2 The Services will be conducted in accordance with the timeframes and procedures detailed on the Website.
- 3.3 Once a booking has been made it cannot be cancelled.

## **4. PRICE AND PAYMENT**

- 4.1 The Price is subject to change at our discretion. Unless stated otherwise the Price is inclusive of GST.
- 4.2 Additional fees may be incurred due to travel, which we will advise you of at the time of booking our Services.
- 4.3 Payment for the Services shall be made in full at the time you book the Services, unless you are an Approved Customer.
- 4.4 Once booked and paid, the Price is non-refundable.
- 4.5 If you are an Approved Customer, payment shall be within 7 days of the date of the invoice issued to you, unless otherwise agreed with by us ("Due Date").
- 4.6 Interest may be charged on any amount owing after the Due Date at the rate of 2.5% per month, calculated on a daily basis.
- 4.7 Any expenses, disbursements and legal costs incurred by us in the enforcement of these Terms shall be paid by you, including any reasonable solicitor's fees or debt collection agency fees.
- 4.8 You will make all payments due to us in full without deduction or set off in a manner approved by us.
- 4.9 Until payment is made in full we shall retain ownership of the Results and the information contained within them.
- 4.10 Results may be withheld at our discretion until payment has been made in full.

## **5. PERSONAL PROPERTY SECURITIES ACT 1999 (“PPSA”)**

- 5.1 If you are an Approved Customer, you grant us a security interest over all amounts owing to us in respect of the Services.
- 5.2 You will provide such information and do such acts and execute such further documents as in our opinion may be necessary or desirable to enable us to perfect the security interest created by these Terms under the PPSA.
- 5.3 We may do all things which we think desirable to remedy any default by you or otherwise protect the security interest created by these Terms.
- 5.4 You waive the right to receive a copy of the verification statement confirming registration of a financing statement or a financing change statement relating to the security interest created by these Terms.
- 5.5 You also agree, where we have rights in addition to those in Part 9 of the PPSA, those rights will continue to apply.
- 5.6 You must not change your name without first notifying us of the new name at least seven (7) days before the change takes effect.
- 5.7 You irrevocably appoint us to be your attorney to do anything which you agree to do under these Terms and anything which we think desirable to protect our interest under these Terms and you ratify anything done by us under this clause 5.
- 5.8 You will upon demand pay all to us expenses and legal costs (on a solicitor/agent/client basis) in or in connection with the registration of a financing statement or financing change statement relating to the security interest created by these terms or obtaining an order under section 167 of the PPSA.

## **6. DEFAULT**

The following shall constitute default by you:

- 6.1 Non-payment of any sum by the Due Date;
- 6.2 You intimating that they will not pay any sum by the Due Date;
- 6.3 You are bankrupt or put into liquidation or a receiver is appointed to any of your assets;
- 6.4 A court judgment is entered against you and remains unsatisfied for seven (7) days;
- 6.5 Any material adverse change in the financial position of you including but not limited to:
  - (a) you becoming insolvent;
  - (b) an arrangement with your creditors is made or likely to be made;
  - (c) you cease or threaten to cease carrying on business;
  - (d) if your ownership or effective control is transferred, or the nature of the your business is materially altered; and/or
- 6.6 Failure by you to comply with any obligation imposed on you under these Terms.

## **7. CUSTOMER WARRANTIES AND ACKNOWLEDGEMENTS**

- 7.1 In making the booking you warrant that:
  - (a) you are legally able to grant us access to the Property.
  - (b) you have obtained any permissions necessary to allow us to perform the Services.
  - (c) the information provided to us is correct.
  - (d) you will arrange and allow us full access to the Property at the time agreed. Failure to do so will require you to make a new booking and pay in full.
- 7.2 You acknowledge that:
  - (a) The Testing is designed specifically for the identification of the presence of methamphetamine residues and the presence of other harmful drugs or precursor chemicals used in the manufacture of methamphetamine may not be detected through the Testing.
  - (b) The Testing cannot detect the presence of masking agents. Negative results will confirm that no detectable levels of methamphetamine residue were present at the time of Testing, however this does not negate the possibility that the methamphetamine has been present on the Property. The Property may have been thoroughly cleaned or had masking agents used on it prior to Testing.
  - (c) The Results are not intended for use in any legal proceedings (including any dispute resolution mechanisms) and you will not seek to have us or our employees or agents summoned to appear in any such proceedings. If we, or our employees or

agents are summonsed to appear on your behalf, you will reimburse us for the reasonable expenses incurred by us in doing so, including but not limited to, loss of income for time and travel expenses.

## **8. CONFIDENTIALITY AND INTELLECTUAL PROPERTY**

- 8.1 We acknowledge the importance of maintaining confidentiality in respect of the Results. We will keep all correspondence between us and the Results confidential and will not disclose these to any third parties unless you authorise us to do so.

## **9. LIABILITY AND INDEMNITY**

- 9.1 The Consumer Guarantees Act 1993, the Fair Trading Act 1986 and other statutes may imply warranties or conditions or impose obligations upon us which cannot by law (or which can only to a limited extent by law) be excluded or modified. In respect of any such implied warranties, conditions or terms imposed on us, our liability shall, where it is allowed, be excluded or if not able to be excluded only apply to the minimum extent required by the relevant statute. For avoidance of doubt, where you acquire, or hold yourself out as acquiring, the Services for business purposes, the Consumer Guarantees Act 1993 does not apply.
- 9.2 Subject to clause 9.1 and to the extent permitted by law, our liability in any case of any defect or fault in the Testing or provision of the Services (including, but not limited to, incorrect Results), or otherwise under these Terms, shall be limited to the value of the total amount paid by you to us in respect of the Services. We shall have no liability or responsibility for any indirect or consequential injury, loss, damage or expense whatsoever and howsoever arising from the provision of the Services, including but not limited to, any decrease in the value of the Property.
- 9.3 You indemnify us, and keep us indemnified against, any claim, liability, loss (including consequential loss and loss of profit), damage or expense (including solicitor's fees) made against, or suffered or incurred, by us and arising from or out of the provision of the Services to you and any breach by you of these Terms, in particular the warranties made at clause 7.1.

## **10. MISCELLANEOUS**

- 10.1 These Terms may be varied from time to time at our discretion, without notice.
- 10.2 We shall not be liable for delay or failure to perform our obligations if the cause of the delay or failure is beyond our control.
- 10.3 Failure by us to enforce any of these Terms shall not be deemed to be a waiver of any of the rights or obligations we have under these Terms.
- 10.4 If any provision of these Terms shall be invalid, void or illegal or unenforceable the validity existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 10.5 If the person who engages us to supply Services does so on behalf of a company, incorporated society or other body corporate, that person warrants to have the power to bind the relevant entity to these Terms.
- 10.6 New Zealand law governs these Terms and New Zealand courts have exclusive jurisdiction.