



Forensic Testing Service

clear evidence - expertly delivered

Terms and Conditions of Business

1. Definitions

- 1.1 In these Terms and Conditions, the following expressions shall have the following meanings:
- 1.1.1 *FTS*: means Forensic Testing Service Limited, having its registered address at York House, Sandal Castle Centre, Asdale Road, Wakefield, WF2 7JE.
 - 1.1.2 *FTS Customer*: means the Instructor, or in the case of a joint instruction the Instructors who are commissioning the Services provided in connection with the advice they are giving to their Individual Clients. Where the person instructing FTS is a member of the public dealing with their own divorce or dissolution they are themselves FTS's Customer.
 - 1.1.3 *Individual Client*: means the individual to whom the FTS Customer is giving professional advice in connection with which the Service is required and who is a Client of FTS's Customer.
 - 1.1.4 *Services*: means the provision by FTS of the collection and testing of samples for specific drugs and/or alcohol use markers, and reporting upon the results, in which an Individual Client of the FTS Customer has, or may have an interest.
 - 1.1.5 *Service Fee*: means the fee charged by FTS for the Services provided.
 - 1.1.6 *Principal*: means either (i) those instructing FTS acting on their own account, or (ii) those instructing FTS being authorised to make such commitments on behalf of the firm or business that they represent.
 - 1.1.7 *Fees Sheet*: means a list of fees produced from time to time by FTS for different aspects of the Services for the purpose of determining the Service Fee.

- 1.2 In this document, the masculine shall include the feminine and the singular shall include the plural and vice versa.

2. Acceptance of these Terms and Conditions

- 2.1 By submitting the Instruction Form or making any other request for the Services, the FTS Customer is deemed to have read and accepted these Terms and Conditions.

3. Commencement

- 3.1 These Terms and Conditions shall be effective from the date on which the FTS Customer instructs FTS to provide elements of the Services, whether by means of an automated request through the internet or by any other written means. These terms shall apply to any instructions that the FTS Customer gives to FTS in connection with the Services, until such time as FTS provide alternative Terms and Conditions to the FTS Customer.

4. Instructions and Information

- 4.1 FTS accepts instructions only on the basis that the FTS Customer is a Principal.
- 4.2 The Services are provided only on the basis that the FTS Customer gives FTS all proper, necessary and timely instructions, authority and information (including all duly executed documents required) to enable FTS to undertake, lawfully and effectively, the Services instructed and that those instructing FTS indemnify FTS accordingly.
- 4.3 FTS shall rely upon information provided by, or on behalf of the FTS Customer Client and on information from published sources. FTS assumes no liability for the accuracy or completeness of such information and shall have no obligation to independently verify the accuracy or completeness of such information.
- 4.4 By agreeing to these Terms and Conditions the FTS Customer confirms, as an individual or member of a professional firm, that they have the authority to instruct FTS concerning this matter.

5. Non-exclusivity

- 5.1 It is understood that the Services are provided on a non-exclusive basis.

6. No reliance by Third Parties

- 6.1 The Services are provided solely for the use of the FTS Customer and apart from the Individual Client who is receiving professional advice from the FTS Customer shall not be used or relied upon by any other third party. The FTS Customer can pass on the Report to other parties as the FTS Customer decides in his absolute right.

7. Alterations

- 7.1 No change to these Terms and Conditions shall be effective unless made in writing and signed by a Director of FTS.

8. Service, delivery and timeframes

- 8.1 FTS will report test results against our standard criteria. Opinions and interpretations expressed in the report are outside the scope of UKAS accreditation
- 8.1.1 The cut-off levels, normal range limits and limits of quantification are based on industry data, recommendations and guidelines, and FTS data and research. FTS will determine these values with reasonable skill and care, but they are provided solely to assist the customer with the interpretation of the results.
- 8.1.2 For each drug FTS set a cut-off level, a result above which is determined as Positive, confirming the presence of the drug and its probable use. FTS will report results as Present when the level is below the cut-off and above the limit of quantification, which is the lowest level at which FTS can accurately quantify the level of drug in the sample. The highest levels reported are based on the upper limit of quantification determined by the highest standard on the standard curve produced for that batch. Where the quantity of drug or metabolite exceeds the upper quantifiable limit then the result is reported as greater than (>) the upper quantifiable limit. There is a measurement of uncertainty for the analysis of drugs and metabolites in hair, which is calculated to accommodate all potential variables during the testing process.

The cut-offs and measure of uncertainty used by FTS for the drugs and metabolites analysed in scalp hair are as follows:

Drug / Metabolite	Cut-off	M of U
Amphetamine	200 pg/mg	39%
Benzodiazepines		
Diazepam	20 pg/mg	28%
Nordiazepam	20 pg/mg	45%
*Temazepam	20 pg/mg	20%
*Flunitrazepam	20 pg/mg	26%
Cannabis		
*THC	50 pg/mg	30%
*CBN	NS	44%
*CBD	NS	37%
Cocaine	500 pg/mg	24%
Benzoylcegonine	50 pg/mg	36%
Cocaethylene	50 pg/mg	29%
*Norcocaine	50 pg/mg	18%
Ketamine*	200 pg/mg	18%
*Norketamine	50 pg/mg	16%
MDMA (Ecstasy)*	200 pg/mg	13%
*MDA	200 pg/mg	18%
Methadone	200 pg/mg	23%
EDDP	50 pg/mg	29%
Methamphetamine*	200 pg/mg	18%
Opiates		
Morphine	200 pg/mg	32%
6 MAM	200 pg/mg	43%
Codeine	200 pg/mg	38%
Dihydrocodeine	200 pg/mg	54%
Buprenorphine*	10 pg/mg	NS
*Norbuprenorphine	10 pg/mg	NS

* Not covered under UKAS 7550 ISO/IEC 17025:2005 accreditation

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Drug / Metabolite	Cut-off	M of U
Mephedrone*	10 pg/mg	NS
Norephedrine*	10 pg/mg	NS
Cathine*	10 pg/mg	NS
Cathinone*	10 pg/mg	NS
Methylone*	10 pg/mg	NS
Methedrone*	10 pg/mg	NS
Methcathinone*	10 pg/mg	NS
MDPV*	10 pg/mg	NS
Butylone*	10 pg/mg	NS
Tramadol*	200 pg/mg	NS

* Not covered under UKAS 7550 ISO/IEC 17025:2005 accreditation

8.1.3 For each alcohol-marker in a blood sample FTS will set a normal range within which are expected to be the results of 95% of the population. Results of some tests outside the normal range may indicate excessive use of alcohol.

8.1.4 For each alcohol-marker in hair (EtG and FAEE), FTS set a cut-off level, a result above which is determined as Positive, which indicates a high probability of excessive alcohol use.

8.1.5 FTS will report results for EtG as Present when the level is below the cut-off and above the limit of quantification, which is the lowest level at which FTS can accurately quantify the level of EtG in the sample. FTS will also report results for EtG as Present when there is no established cut-off in the event the hair is shorter than 3cm in length or when reporting the test results for body hair samples. There is a measurement of uncertainty for the analysis of EtG in hair, which is calculated to accommodate all potential variables during the testing process.

The cut-offs and measure of uncertainty used by FTS for the EtG analysis in scalp hair samples are as follows:

Hair segment	Cut-off	M of U
*0cm to 3cm hair section	30 pg/mg	27%
*3cm to 6cm hair section	30 pg/mg	27%
*6cm to 9cm hair section	30 pg/mg	27%
*9cm to 12cm hair section	30 pg/mg	27%

*Not accredited to UKAS 7550 ISO/IEC 17025:2005

The cut-offs used by FTS for FAEE in scalp hair are as follows:

Hair sample 0cm to 3cm hair section	0.50 ng/mg
Hair sample 0cm to 6cm hair section	1.00 ng/mg

8.1.6 For the majority of drug groups (not including amphetamine group), if the testing fails to detect metabolites of the parent drugs in the hair samples then this may result in not being able to conclusively prove ingestion of the substance.

8.1.7 When FTS analyse hair samples to identify the drug groups selected, it is sometimes possible for compounds, other than those specified, to be detected in the sample, although without further testing and investigation, it is not possible to confirm the identity or quantity of these compounds. In the event that other compounds are detected then only those drug groups originally specified by the FTS customer will be fully investigated and reported. The FTS Customer can request FTS to investigate and report on any additional compounds found in the sample. The charges for the additional investigation and reporting of these drug groups will be specified in the quotation or instruction response. The customer can also formerly request FTS to identify and report any additional compounds found in the sample after the initial testing has been completed, in these circumstances FTS will require an additional confirmed instruction (using the FTS standard instruction process) prior to any further investigation or issue of a test report. It will also be necessary for the customer to obtain consent from their client for the reporting of any drugs, should they be identified and confirmed, that were not listed on the original client consent form in advance of this work being carried out. There will be an additional charge for this investigation and reporting, which will be provided to the FTS Customer who

must confirm their acceptance of the additional charges, prior to commencing any further work.

8.2 Although FTS does not generally provide the Services under a time schedule, nevertheless, FTS request that the customer provides a date in the space provided on the instruction form, confirming when they require the report to be available, FTS will use all reasonable endeavours to make the services available in accordance with the customers requested time schedule. Where it is not possible to meet this schedule FTS will notify the customer and will provide an estimated time schedule, which is usually within 10 working days from receipt of the sample in the laboratory for the majority of the tests provided. However it is understood that statements provided by FTS to the FTS Customer concerning the total work time are given only as an estimate, in good faith and for planning or other purposes only, so will not be contractually binding. Accordingly FTS accepts no responsibility or liability, financial or otherwise, in the event of being unable to comply with the said estimated time schedule.

8.3 Risk in, and to any samples or specimens provided by the FTS Customer shall remain with the FTS Customer. Any title in, and to any test results or similar shall rest with FTS until all payments have been received by FTS from the FTS Customer or its representative.

8.4 FTS may from time to time make changes in the specification of the Services which are required to comply with any applicable safety or statutory requirements or for the purposes of a commercial reasoning by FTS or which do not materially affect the quality or fitness of the Services.

8.5 FTS do not collect B samples unless specifically instructed to do so by the customer. When a B sample is collected it is retained for a minimum period of 12 months and stored under appropriate storage conditions.

8.6 When FTS are instructed to test the B sample, then this is tested in the FTS laboratory unless specifically instructed by the customer to have an alternative laboratory test the sample. Where an alternative laboratory is requested to carry out the testing then FTS will advise the customer on a suitable laboratory. Where the customer specifies a specific laboratory then FTS will only send the sample to the specified laboratory if it is appropriately accredited (UKAS 17025) for the specific analytes that require testing or is on the FTS approved supplier list.

8.7 The sample is sent to the specified laboratory with the appropriate accompanying information and there may be an additional fee applied for the administration and postage.

9. Liability

9.1 FTS shall perform the Services with reasonable skill and care.

9.2 Other than in relation to death or personal injury resulting from the negligence of FTS, the liability of FTS to the FTS Customer or to any third party or parties shall be limited as follows:

9.2.1 Subject to subsection 9.2.2 below of this clause 9, in no circumstances shall FTS be liable to the FTS Customer or to any third party or parties in contract, tort (including negligence or breach of statutory duty) or otherwise howsoever and whatever the cause thereof for: (i) any increased costs or expenses; (ii) any loss of use, profit, business, contracts, revenues, delay, or anticipated savings; or (iii) any special indirect or consequential loss or damage of any nature whatsoever arising directly or indirectly out of the provision by FTS of the Services, or of any error or defect therein, or of the performance, non-performance or delayed performance by FTS of the Services and FTS gives no warranty in respect thereof. (By way of illustration, but not as an exhaustive list, examples of consequential or indirect loss would be loss of future business, loss of reputation or goodwill, loss of anticipated savings and damages, costs or expenses payable by the FTS Customer or any other third parties).

9.2.2 Nothing in this clause 9 is deemed to exclude or restrict FTS's liability to you for death or personal injury resulting from FTS's negligence.

9.2.3 Subject to clause b) above of this clause 9, FTS's entire liability (for any one claim for direct loss or for all claims for direct loss arising from any one act or default, whether arising from FTS's negligence or otherwise) in contract, tort (including negligence or breach of statutory duty) or otherwise arising by reason of, or in connection with this Service shall be limited to the total invoice amount for the relevant Services provided.

9.3 Time of provision of any Services is not of the essence. Any date mentioned is given only as a guide and FTS is not liable for any loss whatsoever arising from any delay or failure of FTS or its third party providers to perform the Services

10. FTS's Fees

10.1 Where an FTS Customer instructs FTS in writing to undertake the Services (or any other service) the FTS Customer is responsible for FTS's fees whether or not the case proceeds to its conclusion.

10.1.1 Where an FTS Customer instructs that the fees are to be shared with other parties then each of the other parties will become responsible individually for their share of the fee indicated by the FTS Customer when FTS receive agreement from the other party.



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- 10.1.2 Until such time as FTS receive agreement from another party the FTS Customer will retain responsibility for other party's share of the fee.
- 10.1.3 FTS will make reasonable efforts to obtain the agreement of other parties to take responsibility for the share of the fee indicated by the FTS Customer.
- 10.1.4 The FTS Customer will be responsible for all charges of other parties, where the FTS Customer has not informed FTS of the sharing parties involved until after receipt of the invoice and Final report. In this instance, FTS will make every effort to support the FTS Customer in securing the payment from the sharing party.
- 10.2 It is of the essence of this Agreement that payment is due immediately in relation to the Services provided. The service is deemed to be provided when the Report is rendered to the FTS Customer.
- 10.2.1 FTS may, at its discretion agree with the FTS Customer, or individually with any of the other parties responsible for a share of the fee, to defer payment of the fee until such time as FTS shall decide. (By way of illustration FTS may agree to defer payment until 14 days after the FTS Customer has received matching payment from the Legal Aid Agency, provided that the FTS Customer makes their claim to the Legal Services Commission immediately when the payment becomes due and pursues such a claim with reasonable skill and care).
- 10.2.2 In the event that payment of an FTS invoice has not been received by FTS from the FTS Customer after a period of 120 days from the date of the invoice, then the FTS invoice will become due for immediate payment by the FTS Customer. This is irrespective of the claim being made to the Legal Aid Agency and/or any subsequent refection of the invoice or payment made by them to the FTS customer.
- 10.2.3 FTS reserve the right at their discretion, to charge interest on any outstanding invoices, which exceed 90 days from the date of the invoice. The rate of interest will be calculated at a daily rate.
- 10.2.4 FTS reserve the right at their discretion, to seek the assistance of any legal means to recover any monies outstanding after 120 days from the date of the invoice.
- 10.3 Any revisions to the Services will be charged at the rates stated in the latest Fees Sheet.
- 10.4 Where work is terminated before completion, the matter will be regulated by clause 13 hereof, below.
- 11. Taxes**
- 11.1 Fees and expenses are exclusive of any Value Added Tax and/or other tax and the FTS Customer will be liable for all such taxes to the extent required by law.
- 12. Force Majeure**
- 12.1 Without prejudice to anything stated elsewhere in this document, it is understood that FTS shall not be liable to the FTS Customer or to any third party for any failure or delay in the performance of FTS's obligations where such delay or failure is caused by circumstances beyond FTS's control which would include (but not be limited to) act of God, war, riot, sabotage, explosion, abnormal weather conditions, fire, flood, strikes, lockouts, or other industrial action or dispute, government actions or regulations, default of third parties, or illness within FTS.
- 13. Cancellations**
- 13.1 If an Instruction request is cancelled, a reduced fee calculated from the Fees sheet for the Services already performed or started at the time of cancellation.
- 13.2 In additions to what is stated above in clause 13.1 hereof, the FTS Customer shall pay in full any third party costs incurred.
- 13.3 There shall be no offset against any other Services that FTS may provide for the same FTS Customer or professional firm.
- 14. Alterations**
- 14.1 The FTS Customer may request an alteration or modification to the Instruction request at any time.
- 15. Communications via e-mail and the Internet**
- 15.1 FTS makes full use of electronic communication where FTS Customers wish.
- 15.2 If the FTS Customer asks FTS to communicate with them electronically via the Internet, FTS asks the FTS Customer to note that the Internet is neither private nor secure and that FTS cannot guarantee correct message routing or promptness of delivery.
- 15.3 Where security and reliability are important, FTS recommends that the FTS Customer does not use the Internet for sending to FTS or receiving from FTS messages or documents.
- 15.4 If the FTS Customer chooses to communicate with FTS via the Internet, FTS shall assume that the FTS Customer wishes communications between him and FTS to be conducted via the Internet notwithstanding the security and reliability issues above mentioned.
- 15.5 If the FTS Customer chooses to communicate with FTS via the Internet and wishes such communications to utilise digital IDs and related encryption features the FTS Customer must give FTS clear written notification of such requirements. In the absence of such a notification FTS shall be entitled to communicate via the Internet without encrypting emails or attachments. The FTS Customer understands that the application and use of digital IDs and encryption is subject to him obtaining and installing an appropriate digital ID on the computer used to communicate with FTS. The FTS Customer accepts that any failure to co-operate with FTS in the exchange of digital IDs and signatures will prevent FTS from communicating with the FTS Customer using digital IDs and encryption.
- 16. Confidentiality & Privacy**
- 16.1 FTS will keep confidential matters it handles for FTS Customers except where FTS Customers authorise FTS to disclose information, where FTS is required to make a disclosure under applicable regulations or legislation or where the information is already within the public domain.
- 16.1 FTS may use personal information provided by the FTS Customer or its employees in connection with this Agreement, but such use would be in accordance with the terms of FTS's Privacy Policy, the current version of which can be provided upon request.
- 16.2 FTS will give the FTS Customer a minimum of 30 days notice of any change to its Privacy Policy.
- 16.3 FTS's Privacy Policy is hereby incorporated into and forms part of this Agreement.
- 16.4 FTS shall be entitled to use data, results and any surplus samples submitted in any studies relating to testing of a biological sample but only in an anonymous manner to prevent the identity of any individual being traceable.
- 17. Data Protection**
- 17.1 FTS will use personal information, which it holds about FTS Customers and FTS Customers' Clients to provide the Service.
- 17.2 FTS may share personal information as referred to above in clause 17.1 of this document but only with associated firms and individuals and only in connection with the Services FTS provides.
- 17.3 FTS will not pass any personal information outside the European Economic Area and FTS will not pass, disclose, rent or sell personal information of FTS Customers or that of individual Clients (other than personal information which is already publicly available) to any third party, without the FTS Customer's prior written consent.
- 17.4 FTS Customers and Individual Clients have the right, by written request and on payment of a small fee, to a copy of any personal data (as defined by the Data Protection Act 1998) which FTS holds about them.
- 18. Copyright in documents and processes**
- 18.1 The Services and all original documents, electronic forms and compilations and/or processes that FTS generates for FTS Customers, are protected by copyright (and, together, may hereafter be referred to as the 'Copyrighted Elements'). For the avoidance of doubt, FTS hereby states and the FTS Customer hereby accepts that the Intellectual Property in the Copyrighted Elements shall remain the property of FTS.
- 18.2 The fee which FTS Customers pay for FTS's work gives FTS Customers an implied license to make use of the materials referred to above in clause 18.1 hereof, but only for the purposes for which they were generated or supplied to FTS Customers and for reasonably associated purposes.
- 18.3 FTS Customers may not copy FTS's Copyrighted Elements for any purposes other than those referred to above in clause 18.2 hereof nor provide them to other firms or individuals. In particular, FTS Customers may not copy or pass on such Copyrighted Elements to individuals or firms who may provide services similar to those offered by FTS or their associates.
- 18.4 If, contrary to what is stated above in clause 18.3 hereof, the FTS Customer makes a third party aware of any aspect of the Copyrighted Elements, or uses any aspect of the Copyrighted Elements in the performance of work for a third party, whether or not in accordance with the said purpose, the FTS Customer will be solely liable to such third party for any error or defect in the work and/or the consequences thereof and will indemnify FTS against all loss, actions, claims, costs, demands, expenses and liabilities whatsoever (if any) which FTS may incur either at common law or by statute in respect of any loss, damage, personal injury or death suffered by a third party by reason of any error or defect in the work, or by reason of the consequences of any such error or defect.
- 19. Destruction of Documents**
- 19.1 FTS will retain files relating to a FTS Customer's matters for seven years after completion. After that period, FTS shall be entitled to destroy files without further reference to the FTS Customer unless the FTS Customer requests otherwise, in writing, in advance.
- 20. Resolving Problems**
- 20.1 In the event of any difficulties with FTS's Services, the FTS Customer should notify FTS immediately the FTS Customer becomes aware of the difficulty.
- 20.2 Initially, the FTS Customer should speak to the Customer Service Department of FTS who will try to resolve the matter.



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20.3 FTS will ensure that the FTS Customer's complaint is investigated promptly and thoroughly and will inform the FTS Customer of the results of the investigation and of any appropriate action taken.

21. No Agency

21.1 Neither party shall be deemed an agent of the other.

21.2 Nothing shall construe FTS an agent of any third party.

22. Law

22.1 The relationship between FTS and the FTS Customer shall be governed by the Laws of England.

22.2 If any dispute between the parties arises out of, or in connection with the Services, it may be referred by either party to, and finally settled by mediation in accordance with the Centre for Dispute Resolution Model Mediation Procedure.

22.3 Any dispute not so resolved by such mediation shall be subject to the exclusive jurisdiction of the English Courts.

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