

Terms and Conditions

1. Definitions

1.1 In this agreement, unless the context requires otherwise, the following expressions have the following meanings:

- a. You, Your and User: means an individual to whom MetService issues User Identification for the purpose of accessing and using the Service.
- b. Effective Date: means the date from which MetService grants You access to the Website.
- c. Information: means meteorological and other information, including the format of the meteorological information, published by the Meteorological Service of New Zealand Limited ("MetService") on the Website from time to time.
- d. Initial Term: date from which the user registers commencing on the Effective Date the user first logs in.
- e. Intellectual Property Rights: includes copyright, and all rights conferred under statute, common law or equity in relation to inventions (including patents), registered or unregistered trademarks, registered and unregistered designs, circuit layouts, confidential information, know how, and all other intellectual property rights together with all rights, interest or licence in or to any of them.
- f. Service: means the provision of the Information to You via the Website.
- g. Subscription: means a paid subscription to the Service.
- g. User Identification: means a unique username and password.
- h. MetFlight GA and Website: means one and the same, namely, the Internet website established by MetService that displays the Information and which can be accessed through use of appropriate communications facilities.
- i. CAA: means the New Zealand Civil Aviation Authority.

2. Subscription

2.1 In order to receive the Service You must have a current Subscription. By ordering a Subscription you agree to pay MetService the fees indicated for the Subscription chosen by You. Payment for the Subscription is to be made by credit card or debit card on a pre-pay basis. All fees payable for the Subscription are non-refundable.

2.2 You warrant and represent that the credit card or debit card used to pay for the Subscription is Yours. All credit card and debit card holders are subject to validation checks and authorisation by the card issuer.

2.3 MetService may change the fees payable for a Subscription at any time.

2.4 You undertake and warrant that:

- a. the information You provide about You for the purpose of purchasing a Subscription is true, current and complete; and
- b. in the Case of members of Part 149 Organisations, You will confirm with the CAA that Your pilot licence number, membership details or contact details are true, current and complete.

2.5 Following the purchase of a Subscription, Your User Identification must not be transferred or shared.

2.6 You must not access, or endeavour to access, the Website or the Information through any means except via an authorised MetService login page. Access to the

Website and the Information by any other method (including, without limit, via a non-MetService website or by scraping, harvesting, data mining, use of a robot or spider, automation, or any similar data gathering or extraction method) is prohibited.

2.7 You are responsible for all access to and use of the Service made using Your User Identification, whether or not such access and use is authorised. You are responsible for protecting and securing Your User Identification from unauthorised use. If You believe that there has been or is likely to be unauthorised use of Your User Identification, You must notify MetService immediately by email to amy.dreverman@metservice.com.

3. Term

3.1 Subject to clause 9, this Agreement will commence on the Effective Date and continue until the end of Your Subscription.

4. Service

4.1 MetService will provide the Service to You upon the terms and conditions contained in this Agreement.

4.2 Although MetService will use reasonable endeavours to ensure the Service is available at all times, MetService does not warrant that access to the Information will be uninterrupted or error free. MetService will not be liable for damages should the Website or Service become unavailable or delayed, or should access to the Website or Service become impeded or impaired for any reason.

4.3 While MetService will use reasonable endeavours to obtain and supply accurate Information, You acknowledge that MetService shall not be responsible (whether in negligence, contract or otherwise) for errors or omissions in the Information.

4.4 You shall indemnify MetService against any claims, loss, damage and expenses, including by third parties, and further including reasonable legal fees on a client/ solicitor basis, arising from any and all use of the Service, or from any breach of this Agreement, by You or any person using Your User Identification, regardless of whether such use is authorised.

4.5 MetService reserves the right to change, modify, suspend or discontinue any or all parts of the Website or the Service at any time. MetService reserves the right to restrict Your access to parts or all of the Service without notice or liability.

4.6 You agree that You must not, and must not enable, the Information contained on the Website to be captured and retained for later or unauthorised access or use.

5. Prohibited Use

5.1 The Information is provided for the User's own use in accordance with this agreement. The User must not resupply all or part of such Information (whether for consideration or not) to any other person, enable third party access to Information, or permit any other person to use the user's User Identification to gain unauthorised access to the Service or the Information. The User may only make use of the Service and the Information lawfully and for the purpose in clause 6.2.

5.2 MetFlight GA is designed and produced only for use by New Zealand registered recreational pilots conducting VFR or IFR recreational flights at or below 10,000ft in New

Zealand. The use of MetFlight GA by flying clubs, aero clubs, flight training organisations or for any commercial operations (including scheduled or unscheduled air transport operations, commercial flight training and/or commercial parachute/sky diving operators) is strictly prohibited.

5.3 Commercial operators conducting flights at or below 10,000ft, flight training organisations and flying clubs or aero clubs providing flight training must make use of the MetFlight Commercial website. Commercial operators conducting flights above 10,000ft may make use of the MetJet website.

6. Changes to the Terms and Conditions of Use

6.1 MetService may add to, remove or change the provisions of this Agreement from time to time. All additions and changes will be notified to You by posting the updated Agreement on the Website. It is Your responsibility as a user to regularly review the Agreement for these additions and changes. They will come into effect immediately on being posted and You will be deemed to have accepted them if You access the Service after the time of posting.

7. Protected Rights

7.1 MetService (and its licensors) owns all Intellectual Property Rights in the Website (including all text, graphics, logos, icons, sound recordings and its “look and feel”), the Information, the underlying software and all other material forming part of this Website, and those rights are protected under copyright and other laws of New Zealand, and, under similar laws abroad.

7.2 You agree not to remove, cover, overlay, obscure or change any copyright notices, legends, or terms of use which MetService may post on the Website. The name and logo of MetService are registered trademarks. You must not use or reproduce or allow anyone to use or reproduce these trademarks for any reason without our express written permission. The software which operates the Website is proprietary software. You must not use it except as expressly allowed under the terms of this agreement. Any other use or purported licensing, modification, enhancement or interference is strictly prohibited.

8. Liability

8.1 Except to the extent that the law prohibits exclusion of liability by MetService, MetService shall not be liable to You for any loss, damage or expense (whether direct, indirect or consequential) incurred by You or any third party through the acts or omissions of MetService its employees or agents or through incomplete, unavailable or erroneous Information. To the full extent permissible by New Zealand law, MetService disclaims all responsibility for damages or losses (including, without limitation, financial loss, damages for loss of revenue, loss of profits or savings, indirect or consequential losses) arising in contract, tort (including negligence) or otherwise from Your use of, or inability to use, the Website, including the Service, or any material appearing on the Website, or from any action or decision taken as a result of using the Website, including the Service, or any such material.

8.2 Material appearing on the Website may include advertising and other material submitted by parties other than MetService and the Website may provide links to other sites operated by advertisers and third parties. Those parties (and not MetService) are responsible for ensuring that such material and such sites comply with all relevant laws and regulations. To the full extent permissible by New Zealand law, MetService disclaims

all responsibility for any error, omission or inaccuracy in such material or its failure to comply with the relevant laws or regulations.

8.3 Subject to clause 10.2, in cases where the law avoids or prohibits provisions which exclude liability, the liability of MetService shall not exceed the charge paid by You for the Information contained in the Service that is the subject of the claim.

9. Termination

9.1. In the event that You commit any breach of this agreement MetService may terminate this agreement and Your access to the Service immediately without notice and without prejudice to other rights and remedies available to MetService.

9.2. Upon termination You shall immediately cease to use the Service and shall not attempt to gain further access to the Website or the Information.

10. Consumer Guarantees Act

10.1. You acknowledge that if the supply of the Service is for business purposes in terms of the Consumer Guarantees Act 1993, the guarantees provided by that Act shall not apply to the Service.

10.2. Where the supply of the Service is not a supply for business then any terms and conditions contained herein which reduce, limit or are contrary to the guarantees and remedies contained in that Act shall be deemed to be omitted from these terms for the purposes of the Act. In such situations the warranties and guarantees set out in this Agreement are in addition to the rights and remedies of the Customer under the Consumer Guarantees Act 1993.

11. Links and Advertising

11.1. Where the Service contains links to other websites, MetService does not accept any responsibility or liability in relation to any content on other websites that are not under MetService's direct control. In accordance with Internet protocol, MetService requires the User to obtain MetService's permission before establishing any link to the Service. If the User wishes to establish a link to the Service, the User should e-mail its request to: Ray.Thorpe@metservice.com.

11.2. Responsibility for the content of any advertisements appearing on the Service (including hyperlinks to advertisers' own websites) rests solely with the advertisers. The placement of such advertisements does not constitute a recommendation or endorsement by MetService of the advertisers' products. Each advertiser is solely responsible for any information contained in its advertisement.

12. Privacy

12.1. By using the Service You authorise MetService and its agents to collect information about You and hold it at MetService's head office. MetService will make use of this information for statistical analysis, to provide services to You, for marketing services and for research and development purposes. You may request access to and correction of any personal information MetService holds in relation to You. Such requests must be in writing and MetService may charge a fee for the reasonable costs incurred in responding to Your requests, provided that MetService discloses those costs to You before they are incurred.

13. Interpretation

13.1. Headings are inserted for convenience and shall not affect the construction for this agreement.

13.2. The singular includes the plural and vice versa.

14. Governing Law

14.1 This Agreement shall be governed and construed by the laws of New Zealand and You accept that any dispute will be dealt with under the laws of New Zealand and through the New Zealand courts.

15. Severability

15.1. If at any time any provision of these terms is or becomes illegal, invalid or unenforceable in any respect under the law of New Zealand, neither the legal validity or enforceability of the remaining intent that these terms shall be construed as if the relevant provision or part had been deleted.

16. Entire Agreement

16.1. The terms and conditions of these terms extinguish the terms of any prior agreements, understandings, representations or warranties previously communicated by MetService in respect of the Service.