

# Terms and conditions of diagnostic services for biological specimens at Landcare Research

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Landcare Research diagnostic service for biological specimens covers morphological and molecular identification, and information supply, for plants, invertebrates, fungi, and bacteria.

## 1. DEFINITIONS

1.1 In these terms and conditions:

- (a) “Client” means the entity submitting a sample or samples to Landcare Research for identification in one of the Landcare Research laboratories.
- (b) “Fees” means the fees for the identification normally advised in writing by Landcare Research to the Client.
- (c) “Landcare Research” means Landcare Research New Zealand Limited.
- (d) “Report” means the report prepared by Landcare Research in relation to the identification results.
- (e) “Sample” means the sample or samples provided by the Client.
- (f) “Identification” means the request by the Client in relation to the Samples.

## 2. SERVICES

2.1 Landcare Research agrees:

- (a) To perform the Identification in relation to the Samples, unless it advises the Client that it is unable to perform the Identification;
- (b) To perform services with the standards of skill, care and diligence normally practised by professional laboratories performing services of a similar nature, and to comply with all relevant laws, regulations, standards and codes of conduct; and
- (c) To use reasonable endeavours to provide the Report within the timeframe specified by the Client (if any) and to advise the Client if it will be unable to do so.

## 3. PAYMENT AND INTEREST

3.1 The Client agrees to pay the Fees by the 20th of the month following the date of invoice from Landcare Research.

3.2 In the event that the Client does not comply with its payment obligations by the due date, Landcare Research may charge interest at the rate of 15% per annum on any outstanding amounts, from the date that the amount fell due to the date of actual payment.

#### 4. CONFIDENTIALITY, PUBLICITY AND USE OF INFORMATION

4.1 Unless otherwise notified by the Client in writing, subject to clause 4.2, and 4.3 below, Landcare Research is able to use any information relating to the Samples (including images, cultures), the Identification, and the Report.

4.2 Nothing in clause 4.1 will prevent Landcare Research from fulfilling its legal obligations relating to the samples (e.g. under the Biosecurity Act, or Wildlife Act).

4.3 Nothing in clause 4.1 will prevent Landcare Research from using information relating to the Samples, the Identification or the Report (including for the avoidance of doubt any data derived during the Identification) for the purpose of internal education, training, and/or reporting of service activities.

4.4 The Client will acknowledge that Landcare Research has conducted the Services in any material published by the Client which refers to the Identification results and/or the Report.

#### 5. SAMPLES

5.1 The Client agrees to advise Landcare Research in the event that a Sample has not been collected or stored in accordance with any collection or storage guidelines issued by Landcare Research.

5.2 Unless otherwise agreed in writing with the Client, Landcare Research:

(a) Will use reasonable endeavours to store any DNA Samples and associated DNA remaining after completion of the Identification for one month following completion of the Tests and;

(b) May destroy the Samples and associated DNA following that period.

(c) Invertebrate samples may be disposed of immediately following the Identification Report being approved by the Client.

5.3 The Client agrees to only send samples that are in accordance with law, that is, legally collected, and with relevant permissions obtained.

#### 6. INTELLECTUAL PROPERTY

6.1 Provided the Client has paid any fees due in relation to the applicable Identification, to the extent that any new copyright subsists in a Report issued to the Client, the Client will own that copyright and will own all rights in relation to the data set out in the Report.

6.2 Notwithstanding clause 6.1 above, Landcare Research may copy and use the Report and the data it contains for the purpose of internal education, training, and/or reporting of service activities.

6.3 Unless otherwise agreed in writing, IP rights for specimens and samples received by Landcare Research for the purposes of Identification will be transferred to Landcare Research to ensure Landcare Research can make that IP available to those accessing the collections.

6.4 Landcare Research will own all rights in relation to any new molecular primers or markers it develops. Landcare Research grants the Client the right to use any new primers or markers developed at the Client's request, provided that the Client first pays the fees charged by Landcare Research in relation to that development.

## 7. EXCLUSION OF LIABILITY

7.1 Landcare Research will not be liable in any manner whatsoever for any costs, damages, expenses, losses or for any consequences of any nature arising as a result of the advice, services, or information provided to the Client. This includes physical damage to specimens in transit to from Landcare Research, or for the destruction of samples and specimens (see 5.2).

7.2 In the event that clause 7.1 above does not apply to a claim, Landcare Research's maximum total cumulative liability to the Client will be NZ\$1,000.

## 8. NO WARRANTY

8.1 Landcare Research warrants that it will take reasonable care in performing the Identification but all other warranties, express or implied, are excluded to the maximum extent permitted by law.

## 9. GENERAL

9.1 Force majeure: Landcare Research will not be liable for failure to perform the services if such failure results from circumstances beyond its reasonable control, including but not limited to government intervention, fire, explosion, earthquake, volcanic activity, extreme adverse weather conditions, war, terrorism, civil commotion and sabotage.

