1. Introduction

The Terms and Conditions apply to any client that intends making use of the services offered by the South African National Biodiversity Institute (SANBI) Genetics Services Unit. The Terms and Conditions may be altered from time to time without notice.

The Terms and Conditions are applicable once signed and submitted together with a signed Genetics Services Sample Submission form. In return SANBI agrees to provide the services as indicated on the Genetics Services Sample Submission form at the fees charged or as per sponsored project agreement.

2. Definitions

**Client:** means an individual or entity or third party (Veterinarian) acting on behalf of a party in obtaining the services from SANBI.

**Confidential information:** means any information of a non-public, confidential or proprietary nature; whether of a commercial, financial or technical nature; customer, supplier, product or production-related; or otherwise, all information exchanged between the parties shall be deemed confidential as protected by any South African legislation.

**Fees:** means the fees payable by clients for the services requested and as per the pricing structure indicated on the Price list.

**Intellectual property:** means all intellectual property rights, including patents, trademarks, registered designs, data base rights, trade or business names, know-how, copyright (including rights in software), design rights, domain name rights, research findings and/or records; text books; treatises; essays; articles and any other intellectual property rights and rights of a similar or corresponding nature in any part of the world (in each case whether registered or not and whether capable of registration or not) and including the right to apply for and all applications for any of the foregoing rights and the right to sue for infringements of any of the foregoing rights, which are proprietary to a Party.

**The South African National Biodiversity Institute (SANBI):** means a juristic person existing under the National Environmental Management Biodiversity Act, No. 10 of 2004, as amended.

**Service:** means the service to be provided by the Genetics Services Unit of SANBI in terms of the agreed request indicated on the Genetics Services Sample Submission form.

3. Confidential information and Compliance with POPIA

SANBI conducts all services with the utmost care and attention, and respects the sensitivity required in dealing with confidential information.
As a client you agree to ethical conduct at all times, act and engage honestly and with integrity in relation to the use of the SANBI services. This includes, but is not limited to, false or misleading statements or omission of required information.

The Parties acknowledge their respective legal obligations with the substantive provisions of the Protection of Personal Information Act, 2013 (POPIA) including, without limitation the processing, storing and sharing of any personal information.

Where any party receives any personal information as defined in POPIA, it shall ensure that it fully complies with the provisions of the Act and only deal with the personal information to fulfil its obligations under these Terms and Conditions. This shall include ensuring that no personal information of either party shall be processed or disclosed without the consent of either party.

All confidential information that is liable to disclosure in these Terms and Conditions shall be managed by SANBI.

SANBI will make any test result obtained available to clients via e-mail in PDF format. Hardcopies will only be supplied on request.

All internal data, documents or any other information generated in delivering the services will remain the intellectual property of SANBI and may not be used without SANBI’s written permission.

Remainder of any sample may be stored in a SANBI Biobank for future research purposes following due diligence processes. No remaining samples or material will be returned to clients.

4. Payable services fees or as per project agreement

Clients agree to pay the required services fees as set out in correspondence from SANBI and to provide proof of payment timeously to the Genetics Services Unit before any sample will be processed, analysed and the results made available in the form of a report.

5. Delivery of samples and client’s obligations

It is the client’s obligation to either hand deliver samples or to make use of a courier service for delivery on their behalf. The delivery address of any sample is: Genetics Services Unit, National Zoological Garden, 232 Boom Street, Pretoria Central, Gauteng. Clients are responsible for all costs and expenses in connection with the delivery of samples to the Genetics Services Unit of SANBI.

SANBI will only accept responsibility for samples once delivered at the Genetics Services Unit in a timely manner and in good condition. SANBI will acknowledge receipt after the Sample Receipt Logbook have been signed by either the client or the courier services employee. Clients are responsible for providing SANBI with sufficient and good quality samples to ensure the required services can be delivered. It is the client’s responsibility to ensure all samples are adequately and accurately labelled.

Clients are responsible to fully complete the required documentation with accurate and timely information as requested on the Genetics Services Sample Submission form. In the case of evidence-based samples, the protocols should be strictly adhered to especially when a passport is required for protected species.

Clients submitting Threatened or Protected Species (TOPS) samples, must ensure that the require TOPS permits accompany these samples. It is a legal requirement.

6. Limitation of Liability and indemnification

SANBI will aim to render quality and timeously services at all times conducted by skilled staff.
SANBI shall not have any liability to the client or to the affiliates of the client in connection with or as a result of any actions, omissions or breaches of these Terms and Conditions, whether arising in contract or delict except to the extent that the client incurs any losses resulting from the gross negligence or wilful misconduct of SANBI.

In the event of any successful claim against SANBI, SANBI’s liability shall be limited to the fees paid by the client for services or the re-supply of the services at the discretion of SANBI. SANBI’s failure to exercise or enforce any right or provision of these Terms and Conditions shall not constitute a waiver of such rights or provisions.

The client indemnifies SANBI against any claims that may arise from the performance of its functions and actions in terms of these Terms and Conditions and the Genetics Services Sample Submission form and that of its employees, consultants, agents, representatives or sub-contractors.

No amendment to these Terms and Conditions shall be valid or effective unless reduced to writing and signed by both parties.

7. Force Majeure

a. A Party is not liable for a failure to perform any of its obligations insofar as it proves:

   i. that the failure was due to an impediment beyond its control;
   ii. that it could not reasonably be expected to have taken the impediment and its effects upon the Party's ability to perform into account at the time of conclusion of the agreement to deliver a service;
   iii. that it could not reasonably have avoided or overcome the impediment or at least its effects.

b. An impediment may result from events such as the following, this enumeration not being exhaustive:

   iv. war, whether declared or not, civil war, civil violence, riots and revolutions, acts of piracy, acts of sabotage;
   v. plague, epidemic, pandemic, natural disaster such as violent storms, cyclones, earthquakes, tidal waves, floods, destruction by lightening; nuclear or chemical or biological contamination.
   vi. explosions, fires, destruction of machines, of factories and of any kind of installations.
   vii. boycotts, strikes and lockouts of all kinds, go slows, occupation of factories and premises and work stoppages.
   viii. acts of authority, whether lawful or unlawful, apart from acts for which the Party seeking relief has assumed the risk by virtue of any other provisions of this Agreement and apart from the matters mentioned in clause c.

c. For the purpose "impediment" does not include lack of authorisations, or licences, or permits or of approvals necessary for the performance of the agreed services and to be issued by the appropriate public authority.

d. Relief from liability for non-performance by reason of the provisions shall commence on the date on which the impediment relied on comes into existence and shall terminate upon the date upon which such impediment ceases to exist; provided that the Party seeking relief shall give notice of such impediment to the other as soon as possible; provided further that if such impediment continues for a period of more than 30 (thirty) days, either Party shall be entitled to terminate this agreed service by written notice to the other Party whereupon the provisions of this agreed service relating to its termination shall apply.
8. Governing Law and Jurisdiction

This service agreement (including its validity, existence, and implementation, the interpretation and application of its provisions, the respective rights and obligations of the Parties in terms of and arising out of the conclusion, breach and termination of the provisions of this Agreement), shall be interpreted and governed in all respects by the laws of South Africa. In terms of Section 45 of the Magistrates Court Act 32 of 1944, the client consents to the jurisdiction of the Magistrates Courts, in respect of any legal proceedings instituted in terms hereof. It shall nevertheless be entirely within the discretion of SANBI whether to proceed against the client in such Magistrate's Court or in any other Court having jurisdiction.

I, ____________________________, hereby sign acceptance of these Terms and Conditions.

______________________________  __________________________
Signature:                     Date: