

# DNA Relationship Testing - Terms and Conditions

(V2 MAR 2023)

These Terms and Conditions ('Terms') cover the basis on which we supply DNA Relationship Testing services to you. Details of the types of testing services are available from our website: [www.northgene.co.uk](http://www.northgene.co.uk)

## 1. Our DNA Relationship Testing service

1.1 Our testing service involves you providing a Sample to NorthGene™, which may be sent to us using a Sample Collection Kit supplied by us, along with the appropriate documentation for DNA Relationship Testing. So, it is this combination of:

- Sample Collection Kit
- DNA Relationship Case Registration Form or Consent Form documentation
- the laboratory DNA testing and analyses performed on the Sample provided to NorthGene™
- the results of the testing, including any DNA Relationship Reports generated

which all form part of the DNA Relationship Testing service. We refer to these combined elements as the 'Service' or 'Services' in these Terms.

1.2 Please read these Terms carefully before you submit your Order to us. These Terms tell you who we are, how we will provide the Service to you, how you and we may change or end our contract with you, what to do if there is a problem and other important information. If you think that there is a mistake in these Terms, or if you have any questions about them, please contact us to discuss this.

1.3 'DNA testing' or 'DNA analyses' refer to any type of DNA relationship analyses and shall be conducted using whichever genetic tests, laboratory processes and data analyses is or are deemed necessary and appropriate by NorthGene™ to deliver the Services.

1.4 'Peace of Mind' DNA Relationship Testing is for your peace of mind. Peace of Mind Services, including any Reports, cannot be used for legal purposes. For further information, please see the Frequently Asked Questions on the NorthGene™ website.

1.5 'Legal and Immigration' DNA Relationship Testing is appropriate where you might want to, for example, amend a child's birth certificate, present evidence to a Court, prove parentage to the Child Support Agency, support an immigration application or to support an appeal to the immigration authorities. For further information, please see the Frequently Asked Questions on the NorthGene™ website.

1.6 'Client' ('you') means an Individual, an authorised Legal Representative or other establishment requesting the Services.

1.7 'Individual' means a private individual person requesting the Services, including those acting in a legal capacity for another Individual, for example those with Parental Responsibility

1.8 'Legal Representative' means an authorised law firm requesting the Services on behalf of an Individual.

1.9 'Sample' means the sample submitted by you and accepted by NorthGene™ for DNA testing; the Sample will be collected from, or provided by, the Sample donor.

1.10 'Price' is the Price for the Service as may be stipulated at the discretion of NorthGene™ from time to time and confirmed when an Order is made for the Services. Unless stated otherwise, all Prices are quoted exclusive of VAT.

1.11 NorthGene™ website means [www.northgene.co.uk](http://www.northgene.co.uk)

## 2 Who we are and contacting us

2.1 NorthGene™ ('we', 'us') means Biofortuna Limited (trading as NorthGene™) of 2 Tenth Avenue, Deeside Industrial Park, Deeside CH5 2UA. Biofortuna Limited is registered in England and Wales with company registration number 06514391.

2.2 You can contact us by telephoning our Customer Services Team on 0191 233 1414 or by writing to us at [northgene@biofortuna.com](mailto:northgene@biofortuna.com) or by post to NorthGene™, 2 Tenth Avenue, Deeside Industrial Park, Deeside CH5 2UA

- 2.3 If we have to contact you we will do so by telephone or by writing to you at the email address or postal address you provided to us in your Order. When we use the words 'writing' or 'written' in these Terms, this includes emails.

### 3 Application of these Terms and Conditions

- 3.1 These Terms shall apply to all Services provided by NorthGene™ to you, to the exclusion of all other terms and conditions including any terms or conditions which you may purport to apply under any agreement, purchase order, confirmation of order or similar document. No conduct by NorthGene™ shall be deemed to constitute acceptance of any terms put forward by you. If any terms are provided by any other party then the NorthGene™ Terms and Conditions shall be deemed to apply to the exclusion of such third party terms to the benefit of NorthGene™.
- 3.2 All Orders for Services shall be deemed to be an offer by you to purchase the Services pursuant to these Terms
- 3.3 Our acceptance of your Order will take place when:
- 3.3.1 we email you to accept it or
  - 3.3.2 written acceptance (including email acceptance) or
  - 3.3.3 your signature on the Case Registration Form or Consent Form you provide to us or
  - 3.3.4 you issue a Purchase Order for the Services
- at which point a contract will be formed between you and us and shall be deemed conclusive evidence of your acceptance of these Terms.
- 3.4 Any variation to these Terms (including any special terms and conditions agreed between you and us) shall be inapplicable unless agreed in writing by an authorised representative of NorthGene™.
- 3.5 Any offer to purchase any Services made orally must be confirmed in writing. NorthGene™ shall not be deemed to have accepted any offer until you have signed and delivered to NorthGene™ any necessary Case Registration or Consent Forms (and/or where applicable: Court Orders or similar forms, together with a copy of any Legal Aid for DNA Profiling Paternity Service where applicable, including the relevant solicitor's Legal Aid Board Contract Number) and where NorthGene™ has given written notice of acceptance.
- 3.6 Please make sure that you have read and understood the information we have provided on our website of other factors which you need to be aware of when using our Service, as this is very important. Please see [www.northgene.co.uk](http://www.northgene.co.uk) for further guidance about the use of the Services and for Frequently Asked Questions.
- 3.7 When you receive the Sample Collection Kit, please make sure you read and understand the instructions for use and how to collect your Sample.
- 3.7.1 If we cannot test your Sample after you use our Sample Collection Kit because you did not follow the instructions for providing a Sample, then you will need to pay for another Service if you wish to send us another Sample.
  - 3.7.2 If we cannot test your Sample after you use our Sample Collection Kit because the kit provided was faulty, or due to our fault, we will provide you with another Sample Collection Kit and test a further Sample which you provide without additional charge.

### 4. The contract and your right to make changes

- 4.1. If we are unable to accept your Order or if we have to cancel your Order, we will inform you of this and we will not charge you for the Service (or we will refund you the charges which you have paid us for the Service, where we have had to cancel the Service where this was not due to your fault). This might be for one of a number of reasons, such as:
- 4.1.1. the Sample Collection Kits being out of stock
  - 4.1.2. the Service which you have selected being temporarily or permanently stopped
  - 4.1.3. unexpected limits on our resources which we could not reasonably plan for
  - 4.1.4. we have identified an error in the Price or description of the Service
  - 4.1.5. we have to deal with technical problems or make technical changes to the Service

- 4.1.6. we have to update the Service to reflect changes in relevant laws or regulatory requirements
- 4.1.7. our timeline for providing the Service will be much longer than what we had estimated and told you about
- 4.1.8. your payment cannot be authorised or has been declined
- 4.2. We will tell you what your Order number is when we accept your Order. It will help us if you can tell us the Order number whenever you contact us about your Order.
- 4.3. If you wish to make a change to your Order, please contact us. We will let you know if the change is possible. If it is possible, we will let you know about any changes to the Price of the Service, the timing of supply or anything else which would be necessary as a result of your requested change. We will then ask you to let us know whether you wish to go ahead with the change. If we cannot make the change or the results of making the change are unacceptable to you, you may want to end the contract (see clause 6).

## 5. The Sample Collection Kit

- 5.1. The costs of delivery of the Sample Collection Kit will be as displayed to you on the NorthGene™ website.
- 5.2. During the Order process we will let you know:
  - 5.2.1. when we will provide the Sample Collection Kit to you and
  - 5.2.2. the timeframe in which we expect to test your Sample once we receive the Sample Collection Kit back from you
- 5.3. If our estimated supply of the Service is delayed by an event outside our control, then we will contact you as soon as possible to let you know. We will also take steps to minimise the effect of the delay where we reasonably can. All of our timings are estimates, so we do not accept liability for delays caused by the event, but if there is a substantial delay, you may contact us to end the contract and receive a refund for any Service you have paid for but not received.
- 5.4. If no one is available at your address to take delivery and the Sample Collection Kit cannot be left at your address, the delivery agent will leave you a note informing you of how to rearrange delivery or collect the Sample Collection Kit from a local depot.

## 6. Your right to end the contract where you are an Individual

- 6.1. This section applies to your rights to end the contract where you are an Individual. This section **does not apply** where you, the Client, are not an Individual, see clause 8.
- 6.2. You can end your contract with us. Your rights when you end the contract will depend on what you have bought, whether there is anything wrong with it, how we are performing and when you decide to end the contract:
  - 6.2.1. If there is a problem with the Service, or because of something which we have done or we have told you we are going to do, you may have a legal right to end the contract (or to get the Sample Collection Kit replaced and the Service re-performed or to get some or all of your money back), see clause 6.3
  - 6.2.2. If you have just changed your mind about the Service and wish to cancel the contract, you may be able to get a refund if you are within the 14 day period referred to in clause 6.4, but this may be subject to deductions and you will have to pay the costs of return of the Sample Collection Kit and make sure that we receive it back in the condition in clause 7.1.2
- 6.3. If you are ending a contract for any of the reasons set out at below in this clause, then please contact us to let us know, and the contract will end immediately. We will refund you in full for the affected Service and you may also rely upon your legal rights. The reasons are:
  - 6.3.1. we have told you about an upcoming change to the Service or these Terms, which affects your current Order for the Service in more than a minor negative way, and you let us know before the change takes effect that you do not agree with it
  - 6.3.2. we have told you about an error in the Price or description of the Service you have ordered and you do not wish to proceed
  - 6.3.3. the supply of the Service is significantly delayed
  - 6.3.4. you have a legal right to end the contract because of something we have done wrong

- 6.4. You have up to 14 days after the day that we email you to confirm that we accept your Order, to cancel the contract, if you simply change your mind and do not wish to go ahead with the Service. However, once we have completed the Service, you cannot change your mind and cancel the contract, even if the 14 day period is still running. If you cancel your Order within the 14 day period, but after we have started the Service, then you must pay us for that part of the Service provided up until the time you tell us that you have changed your mind and wish to cancel the Order.
- 6.5. Please note that where you do not intend to use the Service, then the Sample Collection Kit which you have received must not be opened or be used after you receive it, as this is for health protection and hygiene reasons.
- 6.6. You do not have a right to change your mind to cancel your contract if:
  - 6.6.1. more than 14 days after we have confirmed by email that we have accepted your Order
  - 6.6.2. once the Service has been completed (namely the Sample provided by you has been tested by us), even if the cancellation period is still running

## 7. How to end the contract where you are an Individual

- 7.1. To end the contract with us, including if you have changed your mind and wish to cancel your contract within 14 days of your contract commencing, then:
  - 7.1.1. to end the contract with us in circumstances where the law allows you to do so (so this includes the circumstances mentioned in clauses 3.7.2 and 6.3, please let us know by doing one of the following:
    - email the Customer Services Team at [northgene@biofortuna.com](mailto:northgene@biofortuna.com). Please provide your name, home address, details of the Order and, where available, your phone number and email address, together with the reason why you want to end the contract
    - complete the online 'Contact Us' form. For cancellations in the circumstances mentioned in clause 6.4 (where you are cancelling because you have changed your mind), please complete and submit our online 'Contact Us' form [www.northgene.co.uk/contact-us](http://www.northgene.co.uk/contact-us) providing your name, home address, details of the Order and, where available, your phone number and email address, together with the reason why you want to end the contract

In either case, we will promptly send you an acknowledgment of receipt of your request to end the contract, and we will get in touch with you if we need to further discuss the matter.
  - 7.1.2. if you end the contract because you change your mind during the 14 day period mentioned in clause 6.4, after a Sample Collection Kit has been sent to you, you must return the Sample Collection Kit to us in a hygienic and re-saleable condition, being in a condition in which the value of the Sample Collection Kit is unchanged from what we delivered to you, namely the outer plastic postal bag in which the Sample Collection Kit was delivered remaining sealed and the contents unused and undamaged. You must post the test kit back to us at: NorthGene™, 2 Tenth Avenue, Deeside Industrial Park, Deeside CH5 2UA. Please note that you must return the Sample Collection Kit at your own cost in such circumstances and you must not use the pre-paid postal label which is to be used for returning Samples only (as otherwise we will deduct the postage costs which we incur from your unauthorised use of the label, from your refund). Please email us at [northgene@biofortuna.com](mailto:northgene@biofortuna.com) for a return authorisation. If you are exercising your right to change your mind you must despatch the Sample Collection Kit to us within 14 days of telling us you wish to end the contract. It is your responsibility to make sure that we receive it back in an unopened, unused and undamaged condition.
  - 7.1.3. we will pay the costs of return of a Sample Collection Kit to us: if we request you to return the Sample Collection Kit in any of the circumstances mentioned in clause 6.3, as long as you return it to us in the reasonable manner in which we request at the time. In all other circumstances (including where you are exercising your right to change your mind to cancel the contract as mentioned in clause 6.4) you must pay the costs of return.
  - 7.1.4. we will refund you the Price you paid for the Service, by the method you used for payment. However, we may make deductions from the Price, as described below.
  - 7.1.5. if you are exercising your right to change your mind:
    - we may reduce your refund of the Price to reflect any reduction in the value of the Sample Collection Kit if this has been caused by your handling of it in a way which would not be

permitted in a shop. If we refund you the Price paid before we are able to inspect the Sample Collection Kit and later discover that you have handled it or sent it back to us in an unacceptable way, for example you have unsealed, used or damaged the Sample Collection Kit, or not sent it back to us where we receive it in an undamaged condition, you must pay us an appropriate amount to reflect the lost value in the Sample Collection Kit element. We will also make such a deduction if we do not receive the Sample Collection Kit back. Details of such deductions are set out below in this clause.

- the maximum refund for delivery costs for the Sample Collection Kit will be the costs of delivery by the least expensive delivery method we offer. For example, if we offer delivery of a Sample Collection Kit within a certain number of days at one cost, but you choose to have the product delivered more quickly at a higher cost, then we will only refund what you would have paid for the cheaper delivery option
- we will deduct from any refund an amount for the supply of the Service for the period for which it was supplied, ending with the time when you told us you had changed your mind and wished to cancel the contract. The amount will reflect what has been supplied, in comparison with the full coverage of the contract.

The percentage refund of the price which you would receive for the Service would be as follows, if the cancellation notice was provided by you:

- before the Sample Collection Kit is sent out: 100% refund of the Price
- after the Sample Collection Kit is sent out, but before you unseal or use the Sample Collection Kit (and provided you return it to us in that same re-saleable condition): 100% refund of the Price (but only a refund of our standard delivery charge rather than any premium delivery charge pricing)
- after the Sample Collection Kit is sent out and you have unsealed it or used it, or after we have confirmed that we are unable to test the Sample for the reason mentioned in clause 3.7.1: 0% refund of the Price and no refund of delivery charges

7.1.6. we will make any refunds due to you as soon as possible. If you are exercising your right to change your mind to cancel the contract, then your refund will be made within 14 days of the earlier of either:

- the day on which you provide us with the evidence which we request that you have sent the Sample Collection Kit back to us; or
- the day on which we receive the Sample Collection Kit back from you.

In all other cases, your refund will be made within 14 days of you telling us that you have changed your mind and wish to cancel the contract, in the manner mentioned in clause 7.1.1

For information about how to return a Sample Collection Kit to us, see clause 7.1.2

## **8. Your right to end the contract where you are not an Individual**

8.1. This section applies to your rights to end the contract where you are not an Individual. No cancellation of the whole or any part of any Order is permitted. No refund is payable once analysis of the Samples has commenced.

## **9. Our right to end the contract**

9.1. we may end the contract at any time by writing to you if you do not perform your obligations under the contract.

9.2. in circumstances other than those mentioned in clauses 5.3 and 6.4, the contract will end automatically if within 120 days of us accepting your Order, you do not use the Sample Collection Kit to provide us with your Sample that is necessary for us to provide the rest of the Service. In this case, we will not be providing any further part of the Service to you, and you will not be entitled to receive a full refund for the Service.

## **10. If there is a problem with the Service**

- 10.1. If you have any questions or complaints about the Service, please contact us. You can telephone our Customer Services Team on 0191 233 1414 or write to us at northgene@biofortuna.com or NorthGene™, 2 Tenth Avenue, Deeside Industrial Park, Deeside CH5 2UA
- 10.2. We are under a legal duty to supply a Service that is in conformity with this contract. Nothing in these Terms will affect your legal rights.
- 10.3. If you wish to exercise your legal rights to reject the Service you must send the Sample Collection Kit back to us. We will pay the costs of postage if this is due to one of the circumstances mentioned in clause 6.3. Please call the Customer Services Team on 0191 233 1414 or email us at northgene@biofortuna.com for a return authorisation.

## 11. Price and payment

- 11.1. This section shall apply to all payments due from you to NorthGene™.
- 11.2. The Prices for any Services are subject to change and unless otherwise stated all Prices quoted are exclusive of VAT.
- 11.3. The Price shall be subject to variation by NorthGene™ if, after NorthGene™ have accepted an Order, there is a rise in the cost to NorthGene™ of providing the Services.
- 11.4. We take reasonable care to ensure that the Price of the Service advised to you is correct. However please see clause 11.5 for what happens if we discover an error in the Price for the Service which you order.
- 11.5. It is always possible that, despite our best efforts, a Service we sell may be incorrectly priced. We will normally check prices before accepting your Order so that, where the Service's correct Price at your Order date is less than our stated price at your Order date, we will charge the lower amount. If the Service's correct Price at your Order date is higher than the Price stated to you, we will contact you for your instructions before we accept your Order. If we accept and process your Order where a pricing error is obvious and unmistakable and could reasonably have been recognised by you as a mispricing, we may end the contract, refund you any sums you have paid and require the return of any Sample Collection Kit provided to you.
- 11.6. If the rate of VAT changes between your Order date and the date we supply the Service, we will adjust the rate of VAT that you pay, unless you have already paid for the Service in full before the change in the rate of VAT takes effect.
- 11.7. Where a Legal Representative is instructing NorthGene™ on behalf of one of their clients that is not subject to an acceptable Legal Aid Authority ('LAA') funding certificate, and the Legal Representative does not pay the Price to NorthGene™ in accordance with these Terms, NorthGene™ shall have the right to reclaim any amounts due and owing from that person named as their client, for whom the Services are being obtained on behalf of. That person is required to sign a Consent Form and accept these Terms prior to NorthGene™ undertaking the Services. The Legal Representative warrants that it will have clearly communicated this provision to its client and informed them in no uncertain terms of their possible liability, including for the Price should it remain unpaid.
- 11.8. Where an establishment is instructing NorthGene™ that, in the normal course of their procurement process, would usually issue a Purchase Order for any services procured, then such a Purchase Order should be issued to NorthGene™ at the time the Services are requested. In the event that such a Purchase Order is not received, which then delays payment of the full amount invoiced by NorthGene™ for the Services beyond 30 days of the date of the invoice, then an administration charge of between £30.00 and £90.00 (excluding VAT) at the absolute discretion of NorthGene™ is payable.
- 11.9. All applications in relation to price match promotions must be supported by written quotations from an IEC/ISO 17025:2017 accredited company providing a fully inclusive, like-for like service.

## 12. Price and payment – additional clause for Individuals

- 12.1. We accept payment with Visa and Mastercard credit and debit cards and via PayPal. You must pay the full Price for the Service before we dispatch the Sample Collection Kit to you.

## 13. Legal and Immigration Services for Individuals

- 13.1. **Where you buy the Service for Legal or Immigration purposes, and where you are an Individual, the following section shall apply**
- 13.2. Collection of any Samples and subsequent analysis as part of the Services shall not be undertaken by NorthGene™ unless any and all consent signatures of the Client, or such other information as reasonably requested by NorthGene™, is received by NorthGene™.
- 13.3. Where an instructing party signs to provide consent for a child under the age of 18 years, it must be demonstrable that they are legally qualified to provide such consent by being named on the child's birth certificate, by certification of Legal Guardianship of the child, via an Interim Care Order or the person with Parental Responsibility.
- 13.4. Where consent is provided for a post-mortem Sample collection and Service, this must similarly be demonstrable.
- 13.5. **Note: When providing consent for the provision and DNA analysis of a Sample, it is a serious offence punishable by imprisonment to impersonate, or assist in the impersonation of, another person or to proffer the wrong child for that purpose.**
- 13.6. As highlighted in clause 12.1, the dispatch of the Sample Collection Kit and performance of any Service will only be provided following payment in full.
- 13.7. In the event of you, or any person required to attend by you, not attending a pre-arranged Sample collection appointment or not giving at least 24 hours' notice of cancellation, the fee for the full price of the Sample collection shall be payable by you.
- 13.8. Disbursement costs, where applicable, may be requested from you prior to NorthGene™ entering into an agreement with such third parties on behalf of you. For example, disbursement costs include Sample courier costs and third party Sample collection fees.
- 13.9. Should NorthGene™ agree with you that the payment of the Price be made in instalments, you hereby consent to NorthGene™ charging the payment details it has on file for the full amounts due on the dates agreed. You acknowledge that the Price shall be charged and paid regardless of NorthGene™ being able to communicate the Service results to you (for example, you have changed your contact details without informing NorthGene™).

#### 14. Legal and Immigration Services (where the Client is NOT an Individual)

- 14.1. **The following Terms shall apply for Legal and Immigration Services where the Client is not an Individual and is, for example, an instructing Solicitor, Court, Local Authority, Legal Representative.**
- 14.2. In the event of the Client, or any Individual required to attend by the Client, not attending a pre-arranged Sample collection appointment or not giving at least 24 hours' notice of cancellation, a fee for the full price of the Sample collection shall be payable by the Client. The Client hereby accepts that it shall pay such fees in accordance with the NorthGene™ invoice.
- 14.3. An administration charge of between £30.00 and £90.00 (excluding VAT) at the absolute discretion of NorthGene™ is payable by the Client for all Services that are cancelled after an order is accepted by NorthGene™. The Client hereby accepts that it shall pay such fees in accordance with the NorthGene™ invoice.
- 14.4. Disbursement costs, where applicable, may be requested from the Client prior to NorthGene™ entering into an agreement with such third parties on behalf of the Client. For example, disbursement costs include Sample courier costs and third party Sample collection fees.
- 14.5. Payment of the Price (plus VAT where applicable) shall be due prior to the Services being provided unless the Client is a Court or solicitor awaiting confirmed assistance from the LAA or equivalent in which instance payment shall be made to NorthGene™ immediately upon receipt by the Client of such assistance from the LAA or equivalent.
- 14.6. The Client shall pay the full amount invoiced to it by NorthGene™ in pounds sterling within 30 days of the date of invoice, unless the Client is in receipt of an LAA funding certificate.
- 14.7. Where the Client is in receipt of an LAA funding certificate and provides NorthGene™ with such certificate to the satisfaction of NorthGene™, in which case payment terms will be within 30 days of the date of the certificate, should payment not be received within this time, NorthGene™ may appoint a third party external debt recovery agency to recover any amounts due and owing.

- 14.8. Notwithstanding the provision at 14.7, where the Client is in receipt of LAA or equivalent funding, full payment will be due to NorthGene™ within 90 days of the date of the invoice. Should payment not be received within this time, NorthGene™ may appoint a third party external debt recovery agency to recover any amounts due and owing.
- 14.9. Where the Client has requested a split invoicing or split payment arrangement, the full and correct details of the other individuals or establishments identified as responsible for payment must be provided to NorthGene™ when the case is registered. In the event that these details are incorrect, or changes are requested to the split invoicing arrangement, an administration charge of between £30.00 and £90.00 (excluding VAT) at the absolute discretion of NorthGene™ is payable by the Client to amend the details, issue any requested credit notes or issue amended invoices.
- 14.10. If a Legal or Immigration case does not proceed due to NorthGene™ being unable to secure a Sample from a participant named for testing, NorthGene™ will raise an invoice to reflect the extent to which the Services have been conducted.
- 14.11. The Client acknowledges that the name written on the Case Registration Form or Consent Form, or similar document, will be the name that is printed on the DNA Relationship Report. If any change to such name is requested, documentation in support of the change as required by NorthGene™ shall be provided to NorthGene™ but NorthGene™ shall be under no obligation to make any alteration if in its reasonable opinion the supporting documentation is insufficient. The Client acknowledges that an additional administrative fee may be charged.
- 14.12. Interest on overdue invoices shall accrue from the date when payment becomes due from day to day until the date of payment at a rate of 3% above base rate of the Bank of England from time to time in force and shall accrue at such a rate after, as well as before, any judgment. As an alternative to the above, NorthGene™ shall have, at its discretion, the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998. In addition, an administrative fee will be incurred of 10% of the invoice amount if payment has not been received in full by the due date.
- 14.13. The Client accepts that NorthGene™ will no longer accept cheques as a valid form of payment from 1 January 2023. From this date only, bank transfers, credit card payments, PayPal payments or other means of electronic settlement acceptable to NorthGene™ from time to time. Any cheques received after this date will be returned to the Client and a payment method as described above must be provided to settle the outstanding invoices.
- 14.14. The Client shall reimburse to NorthGene™ immediately the entire cost of re-presenting any cheque or other instrument delivered to it in payment of any sum due by the Client.
- 14.15. The Client shall have no right to withhold any fees payable because of any set-off, counter-claim, abatement, or other similar deduction.
- 14.16. Any failure to pay on the due date will represent a breach of contract and entitle NorthGene™ to cancel the contract for breach of condition and/or to claim damages.

## 15. Samples and Sample transport

- 15.1. Risk in and to any Samples provided by you shall remain with you. Any title in and to any test results (including but not limited to any confidential information and/or other intellectual property rights) or similar shall rest with NorthGene™ until all payments have been received by NorthGene™ from you.
- 15.2. In the event that the Client has any queries that, at the discretion of NorthGene™, require an expert opinion, then NorthGene™ shall be entitled to charge, and the Client agrees to pay, at a rate of £95.00 (excluding VAT) per hour for such an opinion according to the NorthGene™ quotation.
- 15.3. If the Client has any queries regarding invoices then the Client shall contact the Customer Services Team of NorthGene™, whose decision on such matter shall be final
- 15.4. For Solicitor and Local Authority cases we offer a split invoicing option at our discretion. We require the split invoicing form to be completed and returned to us prior to completion of the testing. If we do not receive the split invoicing form prior to the completion of the testing we will invoice the instructing party in full. However, once an invoice has been issued, retrospective split invoicing cannot be requested. The Client agrees that the costs of the instruction will be their sole responsibility, unless signature(s) have been obtained from the split party/ parties in agreement to pay their part of the split invoice.

## 16. Data controller to data controller sharing of information



- 16.1. Where the Client is also a data controller the following shall apply:
- 16.2. Where you are instructing NorthGene™ with regard to the provision of services, we shall handle all personal data in accordance with our Privacy Notice available on the NorthGene™ website. This includes the collection of billing information and contact details for fulfilment of the contract. NorthGene™ shall be data controller with respect of such personal information.
- 16.3. In addition to the information above, NorthGene™ shall be data controller with respect to personal data obtained from Sample donors. In relation to the sensitive personal information collected (which constitutes a special category of data) NorthGene™ shall be responsible for all appropriate consents where NorthGene™ has collected the Samples and shall handle such information in accordance with our Privacy Notice (available on our website).
- 16.4. Where you disclose to NorthGene™ personal information (eg. regarding donor Samples, or parties for split invoicing) you are disclosing this as a data controller in respect of such information. As such you shall comply with all the obligations set under the data protection legislation in respect of any personal data you disclose or transfer. This includes, without limitation, the express requirement for you, as data controller (disclosing to us acting in our capacity as data controller), to maintain a compliant privacy notice in accordance with Article 13 of the GDPR. This policy will set out the legal basis for disclosure to NorthGene™, our role and services to be provided, and confirmation we will contact them (if required).
- 16.5. You shall indemnify and keep NorthGene™ fully and effectively indemnified in respect of all losses, damages, costs, charges, expenses and liabilities (including regulatory penalties imposed on NorthGene™) arising out of or in connection with a breach by you of the data protection legislation (including, without limitation, the failure to adhere to the above provisions by documenting to the data subject the transfer of data to NorthGene™ and consent, or other legal basis, to permit NorthGene™ to contact them and provide the services required. This includes NorthGene™ contacting any party named with regards to split invoicing, or donors to arrange Sample collection (though NorthGene™ shall be responsible for, and the sole data controller, in respect of any special category data collected, other than the disclosure of results).

## 17. Quality and liability

- 17.1. All Services are to be provided by NorthGene™ using all reasonable commercial endeavours with regard to any quality or accuracy communicated, subject always to the Force Majeure and Delivery provisions, below.
- 17.2. NorthGene™ may from time to time make changes in the specification of the Services which are required to comply with any applicable safety guidelines or statutory requirements or for the purposes of a commercial reasoning by NorthGene™ or which do not materially and adversely affect the quality of the Services.
- 17.3. The Client warrants that it is entitled to provide NorthGene™ with all information and data, including all the consents, necessary for the Services and that it shall indemnify NorthGene™ from any claims for infringement of the information or data, breaches of confidentiality or failure to comply with any data protection laws brought by any third parties.
- 17.4. Where the Services include the processing of data as defined in the Data Protection Act 1998 (the 'Act') NorthGene™ acting as a data processor shall use reasonable endeavours to comply with the Act and the Client shall be responsible for the delivery of any agreement required by the Act.
- 17.5. The Client acknowledges that NorthGene™ is reliant on the Client for direction as to the extent to which NorthGene™ is entitled to use and process the Personal Data (within the meaning of the 'Act').
- 17.6. Consequently, NorthGene™ will not be liable for any claim brought by an Individual who is subject to the Personal Data arising from any action or omission by NorthGene™, to the extent that such action or omission resulted directly from the Client's instructions
- 17.7. Each party shall fully indemnify and keep indemnified the other against any and all loss, damage, costs, claims, expenses and other liabilities suffered or incurred by the other party arising from or in connection with the breach of any of its obligations under these Terms and Conditions or other agreement.
- 17.8. It is the Client's responsibility to provide all necessary or requested identification, materials or Samples to NorthGene™ and to complete fully any forms or documents supplied or requested by NorthGene™. Failure to do so may cause a delay in providing results of the testing or inaccuracies in

the results which may affect the evidential value of the results and in such circumstances NorthGene™ shall not be liable for any such delay or inaccuracy. NorthGene™ shall not be liable for any failure to provide accurate, complete, or other form of results due to an insufficient, incomplete or poor quality of Sample. Any further testing, including repeat testing, may incur additional fees.

- 17.9. For the analysis of DNA Samples for Peace of Mind test purposes, it is the responsibility of the Client to ensure that the Samples are taken in accordance with the instructions provided.
- 17.10. Samples that are subsequently found to contain insufficient DNA material upon them will need to be recollected.
- 17.11. Samples that appear, or are found, not to be from the person named on the Case Registration Form or Consent Form shall be reported as Inconclusive and the reasons for this may be identified on the DNA Relationship Report. The Client's attention is drawn to clause 13.5 of these Terms in respect of providing consent and the potential consequence of falsifying consent.
- 17.12. For the analysis of DNA Samples, whether for Peace of Mind or Legal and Immigration purposes, it is the responsibility of the Client to disclose any form of known genetic anomaly or abnormality relating to any and all Sample donors when submitting the Samples for the Services.
- 17.13. NorthGene™ shall not be liable where the failure to disclose a known genetic anomaly, or the subsequent discovery of a previously unknown genetic anomaly, results in an inconclusive or inaccurate test result.
- 17.14. NorthGene™ shall not be liable for any results that are reported as Inconclusive due to the nature of the genetic statistical analysis.
- 17.15. Our scientific procedures are fully validated in accordance with our Quality Management System and NorthGene™ is a United Kingdom Accreditation Service ('UKAS') accredited Testing Laboratory Number 7816 accredited to ISO/EIC 17025:2017. Opinions and interpretations, if provided, are outside the scope of UKAS accreditation.

## 18. Your attention is drawn to the following Terms

- 18.1. Other than those set out herein, all warranties and conditions whether implied by statute or otherwise are excluded from these Terms provided that nothing in these Terms shall restrict or exclude liability for death or personal injury caused by the negligence of NorthGene™.
- 18.2. Without prejudice to the above, NorthGene™ shall not be liable to the Client, whether in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, for any, loss of profit, loss of goodwill, loss of business, loss of business opportunity, loss, anticipated saving, loss or corruption of data or information, special, indirect or consequential damage suffered by the other Party that arises under or in connection with these Terms.
- 18.3. NorthGene™ shall not be liable for any costs, losses or damages incurred due to the actions or omissions of any third party.
- 18.4. The Client understands that whilst the particular testing that NorthGene™ undertakes is highly accurate, as with any testing there is a possibility of error or omission. The Client therefore acknowledges and accepts that in the event of the Client being able to establish a claim for damages resulting from any act of NorthGene™ whether negligent or otherwise, the NorthGene™ liability shall not exceed the Price paid for the Services and agrees to keep NorthGene™ and its agents, officers and employees harmless from all further claims or damages. The Client's rights hereunder shall be subject to the Client notifying NorthGene™ in accordance with these Terms of any error or omission within 30 (thirty) days of it or its representative (whichever is the earlier) becoming aware or should have become reasonably aware of the error or omission.
- 18.5. NorthGene™ shall be entitled without liability to destroy all Samples it receives after the expiry of one month.
- 18.6. Samples taken for DNA analysis that have not yet been processed for any reason shall be destroyed 12 months following their collection date as they may no longer be viable. Technical reports and documentation received shall be held for a period of 12 months from the date of the DNA Relationship Report. A storage fee may be charged to the Client for extended storage.
- 18.7. Should a Client wish, it may make a written request (either via post or via email to northgene@biofortuna.com for a copy of a DNA Relationship Report to which it has either (a) consented to have undertaken, or (b) instructed NorthGene™ to undertake. Subject to all amounts

from the Client having been paid in full, NorthGene™ shall make available to the requesting party a copy of the test Report. NorthGene™ shall charge, and the Client agrees to pay, an administrative fee of between £30.00 and £95.00 (excluding VAT) for each copy Report.

- 18.8. For "Next Day" or "24 Hour" service delivery of the Service, all Samples must be received prior to 10:00 of the first working day. The Service for cases for which this criterion is not met shall be counted from the following working day (Please note, this does not include weekends).
- 18.9. We reserve the right to outsource analyses to accredited partner laboratories where non-standard Services have been requested and/or where operational difficulties mean that the turnaround time would be shorter as a result of doing so.
- 18.10. Whilst endeavouring to preserve and maintain the integrity of the 'B' Sample (the second Sample collected from the donor), in certain circumstances (such as but not exclusive to, internal quality control or if insufficient material is present in the 'A' Sample), we reserve the right to use the 'B' Sample at our own discretion and without recourse to the Client.
- 18.11. No documentation relating to an Order will be released by NorthGene™ unless written authorisation is obtained from the Sample donor. Any request must clearly identify to whom the Sample or documentation should be released.
- 18.12. These Terms shall not affect the statutory rights available to you where applicable.

## 19. Insolvency

- 19.1. Without prejudice to any other claim, right or remedy which either party may have, make or exercise against the other party whether under this contract or at law, this contract may be terminated forthwith by either party giving written notice to the other party on the happening of any of the following events:
  - 19.2. if the other party commits any breach of any of the terms of these Terms and any such breach, if capable of remedy, is not remedied within fourteen (14) days of receipt by the party in breach of written notice specifying the breach, provided that if the breach is remedied to the reasonable satisfaction of the party serving the notice within the said fourteen (14) days, then the notice shall be of no further effect; or
  - 19.3. if the other party, being a company, is unable to pay its debts (within the meaning of Clause 123(1) of the Insolvency Act 1986), has a receiver or administrator appointed over or in respect of any or all of its assets or undertaking or an order of the court is made or an effective resolution is passed for the winding up of the other party or as an individual becomes bankrupt.

## 20. Delivery

- 20.1. Delivery times provided to you shall be approximate as the Services specified may alter or third parties may delay delivery of products or services. NorthGene™ shall not be liable for any delay in the delivery of the Services and time shall not be of the essence.

## 21. Intellectual Property

- 21.1. No title or ownership with regard to any intellectual property rights shall be transferred by a party to the other party as a result of the performance of the contract and consequently the parties retain title to all their respective intellectual property rights.

## 22. Confidentiality

- 22.1. In these Terms 'Proprietary Information' shall mean any information or data in whatever form, nature or media disclosed by any party (the 'Disclosing Party') to the other (the 'Receiving Party') pursuant to the contract.
- 22.2. The Receiving Party undertakes that such information will:
  - 22.2.1. be protected and kept in strict confidence by the Receiving Party which must use at least the same degree of precaution and safeguards as it uses to protect its own Proprietary Information of like importance, but in no case less than reasonable care

- 22.2.2. be only disclosed to and used by those persons within the Receiving Party organisation who have a need to know and solely for the contract
- 22.2.3. not be used in whole or in part for any purpose other than the performance of the contract
- 22.2.4. neither be disclosed nor caused to be disclosed whether directly or indirectly to any third party or persons other than those mentioned in clause 22.2.2 above or as otherwise permitted herein
- 22.2.5. neither be copied, nor otherwise reproduced nor duplicated in whole or in part where such copying, reproduction or duplication has not been specifically authorised in writing by the Disclosing Party.
- 22.3. Any Proprietary Information and copies thereof shall remain the property of the Disclosing Party and shall be returned by the Receiving Party forthwith upon request
- 22.4. The Receiving Party shall have no obligations or restrictions under the contract with respect to any Proprietary Information which the Receiving Party can prove:
  - 22.4.1. has come into the public domain prior to, or after the disclosure thereof and in such case through no wrongful act of the Receiving Party, or
  - 22.4.2. is already known to the Receiving Party, as evidenced by written documentation in the files of the Receiving Party, or
  - 22.4.3. has been lawfully received from a third party without restrictions or breach of this contract, or
  - 22.4.4. has been or is published without violation of this contract, or
  - 22.4.5. is independently developed in good faith by employees of the Receiving Party who did not have access to the Proprietary Information, or
  - 22.4.6. is approved for the release or use in question by written authorisation of the Disclosing Party, or
  - 22.4.7. is not designated or confirmed as confidential in accordance with this clause.
- 22.5. No warranty or representation is given or to be implied by NorthGene™ as to the completeness, accuracy or suitability for any particular purpose of any information or data disclosed hereunder.
- 22.6. The termination or expiry of this contract shall not relieve the Receiving Party of the obligations imposed herein in respect of Proprietary Information received prior to the date of the termination or expiry.
- 22.7. All participants in the DNA Relationship Testing are entitled to a copy of the DNA Relationship Report. Subject to all amounts being paid in full, NorthGene™ shall make available to the participant a copy of the DNA Relationship Report. NorthGene™ shall charge, and the participant agrees to pay, an administrative fee of between £30.00 and £95.00 (excluding VAT) for each copy Report.
- 22.8. The Receiving Party hereby indemnify the Disclosing Party against any claim, damage, loss, costs and/or expense of any kind incurred by the Disclosing Party as a consequence of or in connection with any breach of this clause by the Receiving Party and any person to whom a disclosure has been made under clause 22.4.2 above.
- 22.9. The Receiving Party acknowledges that damages would not be a sufficient remedy for any threatened or actual breach of this contract and that the Disclosing Party will be entitled to other remedies, including but not limited to, injunctive relief and specific performance.
- 22.10. NorthGene™ shall be entitled to use data, results and any surplus Samples submitted in any studies relating to statistical and genetic parameters for DNA testing, including validation of the laboratory testing process, but only in an anonymous manner to prevent the identity of any individual being traceable. Should the Client not wish NorthGene™ to use its anonymised information in this manner, it may notify NorthGene™ in writing by sending an email to [northgene@biofortuna.com](mailto:northgene@biofortuna.com)
- 22.11. The Client agrees to be bound by the terms of the NorthGene™ Privacy Policy which can be found on the NorthGene™ website.

## 23. Force Majeure

- 23.1. Neither party shall be liable for any delay in performing nor failure to perform any of its obligations under this agreement (excluding any payment obligations) caused by events beyond its reasonable

control ('Force Majeure Event'). However, any delay or failure by a representative of the Client shall not relieve the Client from liability for delay or failures except where that delay or failure is also beyond the reasonable control of the representative concerned.

- 23.2. The party claiming the Force Majeure Event shall promptly notify the other in writing of the reasons for the delay or stoppage (and the likely duration) and will take all reasonable steps to overcome the delay or stoppage.
- 23.3. The party claiming the Force Majeure Event shall have its performance under this contract suspended for the period that the Force Majeure Event continues and the party will have an extension of time for performance which is reasonable and in any event equal to the period of delay or stoppage.
- 23.4. Any costs arising from the delay or stoppage will be borne by the party incurring those costs. Either party may, if the delay or stoppage continues for more than sixty (60) working days, terminate any agreement with immediate effect on giving written notice to the other or neither party shall be liable to the other for such termination. The party claiming the Force Majeure Event will take all necessary steps to bring that event to a close or to find a solution by which the contract may be performed despite the Force Majeure Event.

## 24. Notices

- 24.1. Any notice to be given hereunder shall be in writing (including by email) and shall be deemed to have been duly given if sent or delivered to the Client or NorthGene™ at their respective address as detailed in the contract or such other address as the parties may from time to time notify the other in writing. Where notice in writing is sent by post, notice shall be deemed to have been served 48 hours after posting.

## 25. Assignment rights

- 25.1. The Client shall not assign, transfer, purport to assign or transfer any agreement to which these Terms and Conditions apply or the benefit thereof to any other person or body whatsoever unless agreed in writing by NorthGene™.
- 25.2. NorthGene™ may, from time to time, appoint third party service providers to assist in the delivery of the Services. NorthGene™ shall use all reasonable endeavours to ensure any third party appointed is a suitable technically competent laboratory. We will contact you to let you know if we plan to do this. If you are unhappy with the transfer, you may contact us to end the contract within 5 days of us telling you about it and we will refund you any payments you have made in advance for a Service which has not been provided.
- 25.3. These Terms contain the full and complete understanding between the parties and supersede all prior arrangements and understandings whether written or oral appertaining to the subject matter of these Terms and any related documents and may not be varied unless agreed in writing, signed by the Client and NorthGene™. The Client acknowledges that no representations or promises not expressly contained in these Terms have been made to the Client by NorthGene™ in any agreement or by any of its servants, agents, employees, members or representatives.

## 26. Third parties

- 26.1. For the avoidance of doubt nothing contained in these Terms, or the contract, shall confer on any third party any benefit or the right to enforce these Terms or the contract except where otherwise agreed in writing by NorthGene™.

## 27. Privacy Policy

- 27.1. In addition to these Terms, the Client shall be bound by the NorthGene™ Privacy Policy and you should review the Privacy Notice on the NorthGene™ website.

## 28. Governing law

- 28.1. These Terms shall be governed by and construed in accordance with English law. The parties irrevocably agree that the English courts shall have exclusive jurisdiction to settle any dispute or claim

that arises out of or in connection these Terms or their subject matter or formation (including non-contractual disputes or claims).