



Hull Sports Centre, Chanterlands Avenue, Hull, HU5 4EF

TERMS AND CONDITIONS FOR SUPPLY OF SERVICES

Application and entire agreement

1. These Terms and Conditions apply to the provision of the services detailed in our Fixed Price List, Sales Agreement, Quotation and/or Sales Order (**Services**) by Latus Group Companies (Latus Group (UK) Ltd a company registered in England & Wales under number 9990325, The Industrial Diagnostics Company, a company registered in England & Wales under number 04819173 and Latus Health Ltd a company registered in England & Wales under number 10559793) whose registered offices are at Hull Sports Centre, Chanterlands Avenue, Hull, HU5 4EF (**we** or **us** or **Service Provider**) to the person buying the services (**you** or **Customer**).
2. You are deemed to have accepted these Terms and Conditions when you accept our Sales Agreement, Quotation and/or Sales Order, make a booking, or from the date of any performance of the Services (whichever happens earlier) and these Terms and Conditions and our Sales Agreement, Quotation and/or Sales Order (**Contract**) are the entire agreement between us relating to the Services, unless superseded by a specific contract mutually agreed and signed by both parties.
3. You acknowledge that you have not relied on any statement, promise or representation made or given by or on our behalf. These Conditions apply to the Contract to the exclusion of any other terms that you try to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. The exception to this is in any event that a specifically arranged contract of service is drawn up and signed by mutual agreement by both Customer and Service Provider.

Interpretation

4. A "business day" means any day other than a Saturday, Sunday or bank holiday in England and Wales.
5. The headings in these Terms and Conditions are for convenience only and do not affect their interpretation.
6. Words imparting the singular number shall include the plural and vice versa.

Services

7. We warrant that we: (a) will use all reasonable care and skill in the performance of the Services, (b) will use personnel with appropriate skills, qualifications and expertise to perform the Services, (c) will perform the Services in accordance with these Terms and Conditions, the Sales Agreement, Quotation and Sales Order (as applicable), including any specification, and (d) during the term of the Contract, will hold all necessary permissions, consents, and licenses to perform our obligations under the Contract. We can make any changes to the Services which are necessary to comply with any applicable law or safety requirement, and we will notify you if this is necessary.
8. During the term of the Contract, we will maintain in force insurance policies, with reputable insurance companies, against all risks that would normally be insured against by a prudent businessperson in connection with the risks associated with the Contract and will produce to you on demand the full particulars of that insurance.
9. We will use our reasonable endeavours to complete the performance of the Services within the time agreed or as set out in the quotation; however, time shall not be of the essence in the performance of our obligations.
10. All of these Terms and Conditions apply to the supply of any goods which is integral to the supply of Services unless otherwise agreed by both parties.
11. In the case of the Customer making use of or being given access to the mobile and/or web-based software of the Service provider (the 'App'):
 - we grant you a limited non-exclusive, non-transferable license to use the App during the Term, solely for the purpose in relation to the Services;
 - We may modify the App, issue updates and make available new features and functionality;
 - We shall perform ongoing maintenance to ensure the App functions as intended;
 - You shall not assign or otherwise make the App available to any third party, sublicense or allow any person to make use of the App, except pursuant of the normal operation of the App; use the name or proprietary logo(s) of the Service provider or the App without our prior written consent.
12. Terms and Conditions for digital wellbeing services can be found <https://www.latusgroup.co.uk/digital-wellbeing-terms-conditions/>

Your obligations

13. You must obtain any permissions, consents, and licenses to perform your obligations under the Contract and must give us, on reasonable notice, access to any and all relevant information, materials, properties and any other matters which we reasonably need to provide the Services.
14. We are not liable for any delay or failure to provide the Services to the extent caused by your failure to comply with the provisions of this section (**Your obligations**).
15. You are responsible for the health, safety and wellbeing of our colleagues whilst they are on any of your locations for purposes related to the delivery of the Services. Any site inductions and briefings which you require visitors or temporary site attendees to have should also be provided to our colleagues. Time for this should be factored into the schedule for the delivery of the services. If there is any personal protective equipment (PPE) required to attend your site this must be communicated in advance of our arrival.
16. We have a duty of care for the health, safety and wellbeing of our staff. We have a legal and moral responsibility to provide a safe and secure working environment for staff both on and off our premises. All employees of Service Provider and the Customer are expected and required to behave in an acceptable, respectful manner at all times. We have a Zero Tolerance approach towards any abuse of our employees or representatives. Any incident in which an employee or representative is abused, threatened, or assaulted in circumstances relating to their work is unacceptable and will not be tolerated. This includes the serious or persistent use of verbal abuse, aggressive tone and/or language and swearing/foul language. All instances of actual physical abuse or threatening behaviour toward any of our employees or representatives, by a patient or their relatives or any person representing or acting for the Customer will be reported to the police as an assault. In rare circumstances, if the trust between our colleague and a patient or Customer representative breaks down we may find it necessary to end the appointment and/or remainder of appointments booked in that clinic. In such circumstance the appointment/clinic will be stopped and will not be rearranged, but will be charged for.
17. You must allow your employees, staff, agents, contractors or any other persons who are affected by the need for the Services to access and/or benefit from the Services, in accordance with the Sales Agreement or Quotation.
18. You are to facilitate our access to the performance locations and, where a mobile unit is provided by us for the delivery of the Services, facilitate appropriate siting of the vehicle to enable effective delivery of Service and safe access to the vehicle by us and your employees.
19. You must provide us with a contact point and telephone number of the person responsible for our employee's welfare, who will also be available for the full duration of their visit. Should the contact point not be available, or our employee feels that they are not safe during their visit we reserve the right to cancel the visit and will have sole discretion to charge in full for the cancelled appointment.
20. Where a mobile unit is provided by us you must provide access and connection to a 13 Amp electrical power supply.

Fees

21. The fees for the Services (**Fees**) are set out in the Fixed Price List, Quotation and/or Sales Order.
22. Unless specifically stated otherwise all fees are subject to annual price review. The Provider reserves the right to annually review prices stated in any agreement to account for increases in inflation. Prices may be increased in line with inflation, defined as the most recently published RPI percentage change over 12 months as published by the Office for National Statistics.
23. Price increase shall be calculated by applying the percentage change in the chosen inflation index from the commencement of the term, or since the last price review, to the latest prices charged under this agreement.
24. You must pay us for any additional services provided by us, and agreed to by you, that are not specified in the Quotation or Sales Order in accordance with our then current, applicable daily rate in effect at the time of performance or such other rate as may be agreed between us.
25. The Fees are exclusive of any applicable VAT.

Cancellation and amendment

26. We can withdraw or cancel a Sales Agreement, Quotation or Sales Order if it has not been accepted by you, or if the Services have not started, within a period of 30 days from the date of the Sales Agreement, Quotation or Sales Order, unless either has been withdrawn. The Fixed Price List may be amended at any time with the Prices coming into effect 30 days after the publication of the updated List. If you are priced according to the Fixed Price List, you are responsible for checking the current Fixed Price List to be aware of the current prices of Services.
27. Either we or you can cancel an order for any reason prior to your acceptance (or rejection) of the Sales Agreement, Quotation or Sales Order.

28. If you want to amend any details of the Services, you must tell us in writing as soon as possible. We will use reasonable endeavours to make any required changes and additional costs will be included in the Fees and invoiced to you. Once booked and our attendance is confirmed, any cancellation or postponement may incur a fee as detailed below, unless agreed otherwise in writing by us:
- a) Any face to face work where we attend your site or you attend our clinic – 5 working days’ notice is required. Any cancellation within this time will result in 100% cancellation fee.
 - b) Any remote work due to be conducted by phone or video call – 72 working hours’ notice is required. Any cancellation within this time will result in a 100% cancellation fee.
29. If the appointment is due to be remote and the clinician is not able to contact the person with whom the appointment is booked for a reason which is not the fault of the clinician this is deemed to be a cancellation. We will contact the employee via the agreed means at the appointed time. Should there be no response further attempts will be made at 5 minutes and 10 minutes past the hour. In the event that the employee does not answer/attend, we will charge you a full fee for the appointment.
30. If, when we arrive to complete services as by prior agreement, we are not able to deliver the Services due to a breach by you of your obligations under these Terms and Conditions, then this will be considered as a delivered Service and we will invoice you for this according to the terms set out below.
31. If, due to circumstances beyond our control, including those set out in the clause below (**Circumstances beyond a party's control**), we have to make any change to the Services or how they are provided, we will notify you immediately. We will use reasonable endeavours to keep any such changes to a minimum.

Payment

32. We will invoice you for payment of the Fees on the invoice dates set out in the Sales Agreement, Quotation or Sales Order. In case of no specific statement regarding the timing of the invoice, we may submit an invoice for Services at any time.
33. You must pay the Fees due within the terms stated on the invoice or otherwise in accordance with any terms agreed between us. Time of payment is of the essence of the Contract.
34. Without limiting any other right or remedy we have for statutory interest, if you do not pay within 10 days of the date of receipt by you of a written notice from us setting out the outstanding Fees owed (**Final Due Date**), we may charge you interest from time to time on the amount outstanding until payment is received in full. Interest will accrue daily at a rate of 4% above the Bank of England Base Rate (the **Rate**), or where the Rate is less than or equal to 0% at 4%.
35. All undisputed payments due under the Contract must be made in full without any deduction or withholding except as required by law and neither of us can assert any credit, set-off or counterclaim against the other in order to justify withholding payment of any such amount in whole or in part.
36. If you do not pay within the period set out above, we can, on prior written notice to you, suspend any further provision of the Services and cancel any future Services which have been ordered by, or otherwise arranged with, you.
37. Receipts for payment will be issued by us only at your request.
38. All payments must be made by electronic bank transfer in British Pounds unless otherwise agreed in writing between us.

Sub-Contracting and assignment

39. We can at any time subcontract all or any of our rights under the Contract, provided however that we shall remain liable for all acts and omissions of our subcontractors.
40. You must not, without our prior written consent, assign, transfer, charge, subcontract or deal in any other manner with all or any of your rights or obligations under the Contract.

Termination

41. Either party may terminate the provision of the Services immediately by written notice to the other party if the other party:
- a. commit a material breach of your obligations (other than your failure to pay Fees, which is dealt with under clause 31) under the Contract that cannot be remedied or, if it is capable of remedy, that has not been remedied within thirty (30) business days of receiving written notice of the breach; or
 - b. failure to pay any amount due under the Contract by the Final Due Date; or
 - c. are or become or, in reasonable opinion, are about to become, the subject of a bankruptcy order or take advantage of any other statutory provision for the relief of insolvent debtor; or
 - d. enter into a voluntary arrangement under Part 1 of the Insolvency Act 1986, or any other scheme or arrangement is made with its creditors; or

- e. convene any meeting of their creditors, enter into voluntary or compulsory liquidation, have a receiver, manager, administrator or administrative receiver appointed in respect of their assets or undertakings or any part of them, any documents are filed with the court for the appointment of an administrator in respect of them, notice of intention to appoint an administrator is given by them or any of their directors or by a qualifying floating charge holder (as defined in para. 14 of Schedule B1 of the Insolvency Act 1986), a resolution is passed, or petition presented to any court for their winding up or for the granting of an administration order in respect of them, or any proceedings are commenced relating to their insolvency or possible insolvency.
- 42. We may terminate the Contract for convenience at any time by providing you with written notice.
- 43. In the event of termination by us, there will be no charges for future services not yet rendered.
- 44. In the event of termination by you, except where we are in breach of these Terms and Conditions any minimum committed fees due under the Agreement will be due in full.
- 45. After Termination no further access to the App will be available to the Customer or its users, any license to use the App will end and the Customer and its users will have no further rights in or to the App or any further delivery of or access to Services.

Intellectual property

- 46. We reserve all copyright and any other intellectual property rights which may subsist in any goods or products supplied in connection with the provision of the Services. We reserve the right to take any appropriate action to restrain or prevent the infringement of such intellectual property rights.

Liability and indemnity

- 47. Each party's liability under the Contract (whether in contract, breach of statutory duty, tort or misrepresentation or otherwise) shall be limited as set out in this section.
- 48. Subject to clause 45, the total liability of each party under the Contract is limited to the lesser of: (a) one hundred thousand pounds (£100,000) or (b) an amount equal to the total amount of Fees payable by you under the Contract.
- 49. Neither party shall be liable for:
 - a. any indirect, special or consequential loss, damage, costs, or expenses; or
 - b. any loss of business; loss of data; loss of reputation or goodwill.
- 50. You must indemnify us against all damages, costs, claims and expenses suffered by us arising from any loss or damage to any equipment (including that belonging to third parties) caused by you or your agents or employees.
- 51. We agree to indemnify you against all damages, costs, claims and expenses suffered by you arising from any loss or damage to any property (including property belonging to third parties) caused by us or third parties acting on our behalf.
- 52. We agree to indemnify you against all damages, costs, claims and expenses suffered by you as a result of any third-party claim (including any claim from any of your employees or workers) arising out of our negligent acts and omissions, or alleging that we have acted negligently.
- 53. Subject to this section, we shall not be liable for (directly or indirectly); loss of profit, loss of data, loss of use, loss of production, loss of contract, loss of opportunity, loss of savings, discount or rebate (actual or anticipated), or harm to reputation.
- 54. Nothing in the Contract shall limit or exclude either party's liability for death or personal injury caused by negligence, or for any fraudulent misrepresentation, our liability under clauses 43 and 44, or for any other matters for which it would be unlawful to exclude or limit liability.

Data Protection & Record Management

- 55. Each party will comply with all applicable laws relating to privacy and the processing of personal data, including the General Data Protection Regulation (EU) 2016/679 as it forms part of domestic law of the UK by virtue of the European Union (Withdrawal) Act 2018, with adjustments as provided in the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019, and as supplemented by the Data Protection Act 2018 (collectively, **Data Protection Laws**). The terms "Controller", "Personal Data", "Processed" and "Special Category Personal Data" shall have the meanings given to them under Data Protection Laws.
- 56. In the case that a Data Subject passes Personal Data to us for the purposes of delivery of this Contract, we will generally be the Controllers of that data.
- 57. In the case that you pass us Personal Data for the purposes of the delivery of this Contract, you will be the Controller and we will be the Processor of that data.

58. The Service Provider shall only process Personal Data to the extent reasonably required to enable it to supply the Services as mentioned in these terms and conditions or as requested by and agreed with the Customer, shall not retain any Personal Data longer than necessary for the processing and refrain from processing any Personal Data for its own or for any third party's purposes. Our Privacy Policy can be found here: <https://www.latusgroup.co.uk/latus-group-privacy-policy/>.
59. The Service Provider shall implement and maintain technical and organisational security measures as are required to protect Personal Data Processed by the Service Provider on behalf of the Customer.
60. When requesting that Occupational Health and/or Health Surveillance Records are transferred to us, you agree to provide all reasonable assistance and follow all reasonable instructions from us. We shall not be liable for a failure to complete a transfer of records where you have not, in our sole opinion, provided all reasonable assistance and followed all reasonable instructions from us. For the purposes of this clause, any previous provider acting on your behalf is considered to be you.
61. In the event that records are not wholly electronic with a complete index we require that you agree to our waiver of liability prior to us accepting transfer of the records. The Parties agree that we shall not be in breach of this agreement if you refuse to agree to our waiver of liability and we subsequently refuse to accept a transfer of records.
62. We will store your electronic records and data confidentially and securely on servers within the EU. Whilst in contract with you there will be no charge for this. If we are no longer in contract for delivery of services to you then we reserve the right to make a reasonable charge per month for data record storage within our secure IT Infrastructure of £50 per month. Paper records held will be charged at £0.50 pence per box of records per calendar month. Both fees are net of VAT.
63. We reserve the right to charge you an administration fee for the extraction and transfer of records reflecting the cost of locating, retrieving and indexing the records. A Minimum fixed rate fee of £500 will apply in relation to administrative costs for securely transferring electronic records. Paper records needing to be transferred will be charged at a minimum of £10 per box. Any delivery (courier) costs will be recharged in addition to the fixed rate. You permit us to withhold transfer of records until payment has been received by us.
64. When requesting that Occupational Health and/or Health Surveillance Records are transferred out from the us, we shall only transfer records to a medical professional registered and accredited by the GMC or NMC. We shall not be liable for a failure to complete a transfer of records where a request has been made to transfer records to anyone other than a medical professional registered and accredited by the GMC or NMC. You are responsible for ensuring that consent has been given by the data subjects prior to transfer of records from us, and will have to sign a declaration statement to this effect.

Circumstances beyond a party's control

65. Neither of us is liable for any failure or delay in performing our obligations where such failure or delay results from any cause that is beyond the reasonable control of that party. Such causes include, but are not limited to: industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the party in question. If the delay continues for a period of 90 days, either of us may terminate the Contract.

Communications

66. All notices under the Contract must be in writing and signed by, or on behalf of, the party giving notice (or a duly authorised officer of that party).
67. Notices shall be deemed to have been duly given:
 - a. when delivered, if delivered by courier or other messenger (including registered mail) during the normal business hours of the recipient;
 - b. when sent, if transmitted by email and a successful transmission report or return receipt is generated;
 - c. on the fifth business day following mailing, if mailed by national ordinary mail; or
 - d. on the tenth business day following mailing, if mailed by airmail.
68. All notices under the Contract must be addressed to the most recent postal address or email address notified to the other party.

Intellectual Property and Confidentiality

69. All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by the Provider or its third party

licensors, and the Customer agrees that it shall acquire no rights, title or interest in or to the Services or any modifications or improvements to the same

70. Each party agrees (a) not to disclose the other party's Confidential Information to any third parties except as required by applicable law, (b) to protect the other party's confidential information in accordance with good industry practice (and in any event, using reasonable care and skill) , and (c) only use the other party's confidential information for the purposes for which it was disclosed.

Confidential Information includes all information related to us, you and any affiliates of ours or yours that is marked as confidential or would otherwise be regarded as confidential by a reasonable business person. This includes but is not limited to information relating to the business affairs, customers, suppliers, market opportunities, operations, product information, know-how, designs, trade secrets or software of either us or you.

No waiver

71. No delay, act or omission by a party in exercising any right or remedy will be deemed a waiver of that, or any other, right or remedy nor stop further exercise of any other right, or remedy.

Severance

72. If one or more of these Terms and Conditions is found to be unlawful, invalid or otherwise unenforceable, that / those provisions will be deemed severed from the remainder of these Terms and Conditions (which will remain valid and enforceable).

Law and jurisdiction

73. The Contract shall be governed by and interpreted according to the law of England and Wales and all disputes arising under the Contract (including non-contractual disputes or claims) shall be subject to the exclusive jurisdiction of the English and Welsh courts.

Third party rights

74. The Contract is for the benefit of the parties and is not intended to benefit any third party or be enforceable by any third party, and do not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

Non-Compete & Non-Solicitation

75. The Customer hereby agrees not to approach, engage or employ directly or indirectly any existing employee of the Latus Group or any former employee who has left the employment of the Latus Group within the previous 6 months of the commencement of this agreement, or approach or directly engage any occupational health professional or physician engaged by the Latus Group to provide services to the Customer as stated in this agreement during the currency of this agreement.
76. In the event that the Customer engages the services of an employee or associate of the Latus Group who has provided services to the Customer within 12 months of said person leaving the Latus Group, the Customer agrees to pay a recruitment/introduction fee equivalent to 25% of the person's salary.

Variation

77. Any changes to the Contract must be agreed in writing and signed by an authorised representative of both parties.