



### Ascenti Physio Limited Terms and Conditions of Supply

These terms and conditions of supply (**Conditions**) are the terms and conditions upon which Ascenti Physio Limited (company number 04530716), with its registered office at Carnac House, Carnac Court, Cams Estate, Fareham, Hampshire, PO16 8UZ (**Ascenti**) agrees to provide Services to Individuals Referred by the Agency (each as defined below).

Please read these Conditions carefully. By submitting a Referral, the Agency will be deemed to have accepted these Conditions. Your particular attention is drawn to clause 8 (Limitation of Liability).

We may vary these Conditions from time to time in accordance with clause 12.1. The version of these terms in force as at the date of the Referral shall apply to such Referral. Please refer to our website at <https://ascenti.co.uk/terms-conditions/medico-legal-agency> for the current version of the Conditions.

#### 1. **Definitions and Interpretation**

##### 1.1 In these Conditions the following definitions apply:

**Agency:** means the person or entity that has submitted the Referral to Ascenti;

**Contract:** means the agreement between Ascenti and the Agency for the supply and purchase of the Services incorporating these Conditions and formed in accordance with clause 2.5;

**Data Protection Legislation:** means (i) the General Data Protection Regulation ((EU) 2016/679) as it forms part of domestic law in the United Kingdom by virtue of section 3 of the European Union (Withdrawal) Act 2018 (including as further amended or modified by the laws of the United Kingdom or of a part of the United Kingdom from time to time) ("**GDPR**"); (ii) the Data Protection Act 2018; (iii) any implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and (ii) any successor legislation to the GDPR or the Data Protection 2018;

**Individual:** means an individual person who is the subject of a Referral and in respect of whom the Agency requires Ascenti to provide the Services;

**Referral:** means the referral made by the Agency referring an Individual to Ascenti for such Individual to receive the benefit of the Services in accordance with clause 2.2 of these Conditions, and the terms **Referred** and **Refer** shall be interpreted accordingly;

**Services:** means in person network physiotherapy services to be provided by Ascenti to an Individual in accordance with the Contract;

**Working Day:** means a day other than a Saturday, Sunday or bank or public holiday in England;

##### 1.2 In these Conditions, unless the context requires otherwise, a reference to the Contract includes these Conditions, the Referral, and any schedules, appendices and annexes attached hereto (if any).

##### 1.3 Any clause, schedule or other headings in these Conditions is included for convenience only and shall have no effect on the interpretation of the Conditions.

##### 1.4 In these Conditions:

1.4.1 a reference to a 'party' includes that party's personal representatives, successors and permitted assigns;

1.4.2 a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;

1.4.3 a reference to a 'company' includes any company, corporation or other body corporate, wherever and however incorporated or established;

1.4.4 a reference to a gender includes each other gender;

1.4.5 words in the singular include the plural and vice versa;

1.4.6 any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;

1.4.7 a reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form (including email);

1.4.8 a reference to legislation is a reference to that legislation as amended, extended, re-enacted or consolidated from time to time and a reference to legislation includes all subordinate legislation made from time to time under that legislation.

#### 2. **Application of these Conditions and formation of Contract**

2.1 The Agency shall be under no obligation to make referrals to Ascenti and Ascenti shall be under no obligation to accept Referrals. However, these Conditions shall apply in respect of all Referrals that the Agency makes and Ascenti agrees to accept.

2.2 In the event that the Agency wishes to make a Referral it shall provide to Ascenti the following information in respect of the Individual: (i) full name, (ii) postal address, (iii) email address, (iv) telephone number, and (v) such other information as Ascenti may reasonably request from time to time, such details to be provided by email to [instructions@ascenti.co.uk](mailto:instructions@ascenti.co.uk) or by any such other method as Ascenti may accept from time to time

2.3 Each Referral by the Agency to Ascenti shall be an offer to purchase Services subject to the Contract including these Conditions.

2.4 If Ascenti is unable to accept a Referral, it shall notify the Agency promptly following receipt of the Referral.



- 2.5 Ascenti may accept or reject a Referral at its discretion. A Referral shall not be accepted, and no binding obligation to supply any Services shall arise, until the earlier of: (i) Ascenti's written acceptance of the Referral or (ii) Ascenti taking any steps in connection with the performance of the Services, including contacting the Individual in order to book an appointment. Upon acceptance of the Referral in accordance with the foregoing, the Contract shall be formed incorporating these Conditions.
- 2.6 Rejection by Ascenti of a Referral, including any communication that may accompany such rejection, shall not constitute a counter-offer capable of acceptance by the Agency.
- 2.7 These Conditions apply to and form part of the Contract between Ascenti and the Agency. They supersede and extinguish (i) all previous agreements and understanding between them, whether written or oral, relating to its subject matter, notwithstanding any minimum term thereof and (ii) any previously issued terms and conditions of purchase or supply.
- 2.8 No terms or conditions endorsed on, delivered with, or contained in the Referral or any other document shall form part of the Contract.
- 2.9 Subject to clause 12.1, no variation of these Conditions or to a Referral or to the Contract shall be binding unless expressly agreed in writing and executed by a duly authorised signatory on behalf of each of Ascenti and the Agency respectively.
- 2.10 Marketing and other promotional material relating to the Services are illustrative only and do not form part of the Contract.
3. **Provision of Services and Regulatory Requirements**
- 3.1 Following acceptance of a Referral, Ascenti shall use reasonable endeavours to provide the Services in accordance with the following service levels in all material respects:

Item	Service Level
Date of referral to date of first contact attempt	2 Working Days
Date from first contact to Initial Assessment (subject to clinic/Individual availability)	10 Working Days
Initial assessment report emailed to the Agency	5 Working Days from appointment
Discharge report emailed to the Agency	5 Working Days from appointment

- 3.2 Ascenti shall comply with all applicable laws, statutes, regulations and codes from time to time in force applicable to the provision of the Services.
- 3.3 In performing the Services, Ascenti will produce all reports (Initial Assessment (IA), mid-treatment (MID) (if applicable) and discharge (DC)) using Ascenti's standard templates in place from time to time. Ascenti shall not be required to prepare reports using any templates provided by the Agency or in any other format other than Ascenti's own template in place from time to time.

- 3.4 The Agency acknowledges and agrees that Ascenti is subject to certain regulatory requirements, including all applicable laws, statutes, regulations and professional codes, policies and standards from time to time in force (together the "**Regulatory Requirements**") and that, notwithstanding any other provision of these Conditions, nothing in the entirety of the contractual arrangements between the parties shall require Ascenti to take any action (or refrain from taking any action) in breach of, or which is contrary to its obligations under, the Regulatory Requirements. Without limiting the generality of the foregoing, and notwithstanding any other provision of these Conditions:

3.4.1 it is acknowledged that Ascenti will owe a duty of confidentiality to each Individual referred by the Agency and that Ascenti shall not be required to disclose to the Agency any information disclosed by or on behalf of any such Individual to Ascenti except to the extent expressly authorised by that Individual;

3.4.2 nothing contained in these Conditions or the Contract will require Ascenti to act in a way that is not in accordance with the best interests of any Individual referred to by the Agency;

3.4.3 nothing contained in these Conditions or the Contract will provide the Agency with any right or power to influence or constrain Ascenti's professional or independent judgement in relation to the Services provided in respect of any Individual referred by the Agency; and

3.4.4 no obligation shall arise on the part of Ascenti to accept instructions or continue acting in respect of any matter where there is a conflict of interest or other professional conduct or regulatory issue arising at any time affecting Ascenti.

#### 4. **Obligations of the Agency**

- 4.1 The Agency shall comply with all laws, statutes, regulations and codes from time to time in force, applicable to the making of Referrals and the provision of Services by Ascenti including without limitation the Data Protection Legislation.
- 4.2 The Agency shall provide all necessary information to Ascenti in a timely fashion to enable Ascenti to provide the Services and shall otherwise co-operate with Ascenti in connection with the provision and receipt of the Services.

#### 5. **Confidentiality**

- 5.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs ("**Confidential Information**"), except as permitted by Clause 5.2.
- 5.2 Each party may disclose the other party's Confidential Information:
- 5.2.1 To its employees, officers, representatives or advisers who need to know such Confidential Information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers,



representatives or advisers to whom it discloses the other party's Confidential Information comply with this Clause 5; and

5.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

5.3 No party shall use any other party's Confidential Information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

## **6. Fees and Payment**

### **Fees**

6.1 Subject to adjustment in accordance with Clause 6.7, the price for the provision of the Services (the "**Price**") is as follows:

Service	Price (excl. VAT)
Initial Assessment & Report (30 minutes)	£40.00
Treatment Sessions (30 minutes)	£35.00
DNA	See clause 6.2 below
Second (or any subsequent) DNA	See clause 6.2 below

6.2 In the event that an Individual fails to attend a scheduled appointment without giving at least 24 hours advance notice (each a "**DNA**"), Ascenti shall charge the Agency as follows:

*1st DNA* – Ascenti will not charge for the Individual's first DNA and will notify the Agency by email to confirm there is a DNA. Ascenti will then rebook the Individual.

*2nd (or any subsequent) DNA* – Ascenti will charge for any second (or subsequent) DNA at the full session rate as set out above and will email the Agency to close the file (and discharge the Individual). The file will remain closed unless the Agency agrees to fund all further DNAs.

### **Invoicing and Payment**

6.3 Ascenti shall be entitled to raise an invoice at any point following discharge of the Individual.

6.4 All invoices shall be payable by the Agency within 30 days of the date of the invoice. Payment shall be made in cleared funds by electronic transfer to such account as nominated by Ascenti from time to time.

6.5 Time of payment is of the essence under the Contract. In the event that payment terms are not adhered to, without limiting its other rights and remedies, Ascenti may: (i) return ALL new referrals from the Agency and cancel any existing clients of the Agency in Ascenti's booking system, and withhold all IA and discharge reports until all overdue payments have been paid in full and/or (ii) charge interest on such sums at 4% a year above the base rate of Lloyds Bank plc from time to time in force, such interest accruing on a daily basis, and applying from the due date until actual payment in full, whether before or after judgment.

6.6 All invoices raised by Ascenti will be invoiced to the Agency and it is the Agency's responsibility to recover the costs direct from the Individual. Ascenti's invoices shall be payable by the Agency in full whether or not the Agency recovers the costs from the Individual.

### **Fee review**

6.7 Ascenti shall be entitled to adjust the Prices outlined in Clause 6.1 of these Conditions from time to time provided that it shall not increase the Prices more than once in any 6-month period. In the event of any adjustment in the Prices:

6.7.1 Ascenti shall use reasonable endeavours to provide the Agency with no less than 4 weeks notice of such adjustment;

6.7.2 Ascenti shall publish an updated copy of these Conditions, incorporating such Prices, as adjusted, on its website at <https://ascenti.co.uk/terms-conditions/medico-legal-agency>; and

6.7.3 such updated Prices shall apply to any new Referrals received on or after the date that such updated Conditions are published on Ascenti's website at <https://ascenti.co.uk/terms-conditions/medico-legal-agency> or such later date as notified by Ascenti, and by sending any Referral to Ascenti after such date, the Agency shall be deemed to have accepted such Prices, as adjusted.

6.8 Any adjustment of Prices carried out in accordance with clause 6.7 shall not apply to any Referral received by Ascenti prior to the effective date of such Price adjustment.

## **7. Termination**

7.1 Either party (the "**terminating party**") may terminate the Contract immediately in the event that the other party:

7.1.1 becomes or (in the reasonable opinion of the terminating party) is likely to become insolvent;

7.1.2 ceases to carry on its business;

7.1.3 is in material breach of the Contract and such breach is not capable of remedy;

7.1.4 is in material breach of the Contract which is capable of remedy but which it fails to remedy within 7 days of being given notice requiring it to remedy such breach; or

7.1.5 fails to pay any amount that is due and payable under the Contract on the due date and such sum remains outstanding 7 days after being given notice by the terminating party requiring that other party to pay such outstanding sum.

7.2 On termination or expiry of the Contract for any reason:

7.2.1 unless Ascenti otherwise notifies the Agency, Ascenti shall continue to provide the Services in respect of any referral received by Ascenti prior to the date of such termination or expiry and the terms of the Contract shall continue to apply to any Services so provided;

7.2.2 all outstanding accounts will be settled by the Agency by their due date or, if sooner, within 30 days of the date of such termination or expiry; and



7.2.3 any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

## 8. Limitation of Liability

- 8.1 This clause sets out the entire financial liability of Ascenti to the Agency in respect of any breach of the Contract or in connection with the provision of the Services however arising, any use made by the Agency of the Services and any indemnity, representation, statement or tortious act or omission (including negligence or breach of statutory duty) arising under or in connection with the Contract or the provision of the Services.
- 8.2 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 8.3 Nothing in these Conditions or elsewhere in the Contract limits or excludes the liability of Ascenti for death or personal injury resulting from its negligence or fraud or fraudulent misrepresentation or for any other liability that cannot be limited or excluded by law.
- 8.4 Subject to Clause 8.5, Ascenti shall not under any circumstances whatever be liable for loss of profit, loss of business, loss of corruption of data or information or any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
- 8.5 Ascenti's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise howsoever arising under or in connection with the Contract shall in all circumstances be limited to the lower of (i) the total fees paid to Ascenti pursuant to the Contract in the 12 month period ending on the date of the event giving rise to the claim and (ii) £100,000.

## 9. Force Majeure

Neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control. The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for 3 months, the party not affected may terminate the Contract by giving 14 days' written notice to the affected party.

## 10. Data Protection

- 10.1 For the purpose of this Clause 10, **Personal Data, Data Controller, Data Processor, Data Subject, processing and/or process** shall have the meanings given to them in the Data Protection Legislation.
- 10.2 Each party shall, and shall ensure its processors and personnel shall, at all times comply with the Data Protection Legislation in connection with the processing of Personal Data and the provision of the Services. Nothing in the Contract relieves the parties of any responsibilities or liabilities under the Data Protection Legislation. Any breach of the Data Protection Legislation or of this Clause 10 by one party shall be deemed to be a material breach of the Contract.

10.3 Ascenti and the Agency acknowledge that the provision of the Services will require the parties to share and process Personal Data belonging to the other party or clients. Each party acknowledges that the other party is acting as a Data Controller and not as a Data Processor regarding the Processing and transfer of Personal Data arising from or occasioned by the Services or those services provided by Ascenti to clients for the duration of the Contract (the **Permitted Purpose**).

10.4 The Agency will, before passing the details of any client to Ascenti, ensure that it has all necessary notices and consents and lawful bases in place to enable lawful transfer of Personal Data relating to any such client to Ascenti and otherwise to enable lawful Processing of their Personal Data by the Agency and by Ascenti.

10.5 Each party warrants to the other that it will only process the Personal Data referred to in Clause 10.4 above for the Permitted Purpose and in compliance with the Data Protection Legislation.

10.6 Each party warrants that it has and will maintain adequate data protection policies for the processing of Personal Data which clearly sets out each party's obligations in respect of the said Personal Data. Each party will share with the other party copies of such data protection policies and such other evidence of compliance with the Data Protection Legislation and with this Clause 10 as may be reasonably requested by that other party from time to time.

## 11. Notices

- 11.1 All notices given under or in connection with the Contract or the provision of the Services shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or other next working day delivery service providing proof of postage or by email:

*In the case of the Agency:* to the registered office of the Agency (if a company) or its principal place of business (in any other case) or to such other address of the Agency as set out in the Referral or to any email address set out in the Referral (or from which the Referral is sent) or any other email address as used by the Agency for communicating with Ascenti from time to time.

*In the case of Ascenti:* to its registered office address marked for the attention of the Directors or by email to [kdoyle@ascenti.co.uk](mailto:kdoyle@ascenti.co.uk), or in either case to such other address or email address as Ascenti may notify to the Agency in accordance with this clause 11.1 from time to time.

11.2 Any notice or communication shall be deemed to have been received if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address, or if sent by email, at the time of transmission.

11.3 This clause does not apply to notices given in any legal proceedings or arbitration.

## 12. Miscellaneous Provisions

- 12.1 **Variation:** Ascenti shall be entitled to vary these Conditions from time to time. Ascenti shall use reasonable endeavours to provide the Agency with no less than 4 weeks notice of such variation and shall publish a copy of these Conditions, as so varied, on its website at <https://ascenti.co.uk/terms-conditions/medico-legal-agency>. Any variation of these Conditions shall be effective from



the date on which such Conditions, as so varied, are published on Ascenti's website at <https://ascenti.co.uk/terms-conditions/medico-legal-agency> or such later date as notified by Ascenti, and by sending any Referral to Ascenti after such date, the Agency shall be deemed to have accepted such Conditions, as varied. Any variation to the Conditions carried out in accordance with this clause 12.1 shall not apply in respect of any Referral received by Ascenti prior to the effective date of such variation save to the extent that such variation is necessary to comply with any legal, regulatory or professional obligation or change.

- 12.2 **Third Party Rights:** A person who is not a party to the Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of it.
- 12.3 **Entire Agreement:** Ascenti and the Agency agree that the Contract constitutes the entire agreement between the parties and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter. Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract. Nothing in this clause shall limit or exclude any liability for fraud.
- 12.4 **Severance:** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision or part-provision of the Contract is deemed deleted pursuant to this Clause 12.4, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

### 13. **Governing Law**

- 13.1 The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the law of England and Wales.
- 13.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).



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