



APEX DATA SOLUTIONS

Terms of Service

Apex Platform

FOR CUSTOMERS AND ASSESSORS

Document	Terms of Service
Version	Version 1.4
Date	24 August 2026
Issued by	Apex Data Solutions Pty Ltd
Audience	Customers, prospective customers and assessors

Apex Data Solutions Pty Ltd | ABN 71 670 512 857 | 13 Draper Avenue, Roselands NSW 2196
www.apexdatasolutions.com.au | admin@apexdatasolutions.com.au

PART A — PRELIMINARY

1. About these Terms

1.1 These Terms of Service (**Terms**) govern access to and use of the Apex Platform, a browser-based analytics and reporting service supplied by Apex Data Solutions Pty Ltd ABN 71 670 512 857 / ACN 670 512 857 (**Apex, we, us, our**).

1.2 The Apex Platform is supplied to schools for use by school staff. It is not supplied to students or parents, and no student or parent accounts exist or may be created.

1.3 These Terms, together with the documents listed in clause 3, form a binding agreement between Apex and the Customer (**Agreement**).

1.4 These Terms are written to be read by school executives, business managers and procurement officers as well as by lawyers. Where a clause imposes an obligation on the Customer, or limits what the Customer can recover from Apex, it is set out plainly. Nothing in these Terms is intended to operate as a trap.

2. Definitions

The following terms have these meanings throughout the Agreement.

Affected Individual means an individual to whom Personal Information relates.

Agreement means has the meaning given in clause 1.3.

Apex Data means all data, materials, software, algorithms, rule sets, report templates, documentation and know-how owned or licensed by Apex, excluding School Data and Outputs.

Authorised User means an individual employed or engaged by the Customer who is a member of school staff (including teachers, head teachers, executives and principals) and to whom the Customer has issued Platform credentials in accordance with clause 8.

Business Continuity Plan means the documented business continuity and disaster recovery plan maintained by Apex under clause 35.4.

Business Day means a day that is not a Saturday, Sunday or public holiday in Sydney, New South Wales.

Confidential Information means has the meaning given in clause 31.1.

Customer means the school named in the Order Form. Where that school is a NSW government school, the Customer is the State of New South Wales acting through the Department of Education, represented by that school and acting by its Principal under delegated authority. Where the school is a non-government school, the Customer is the legal entity that operates the school as named in the Order Form.

Data Breach means unauthorised access to, unauthorised disclosure of, or loss of, School Data held by Apex, in circumstances where that access, disclosure or loss is likely to result in serious harm to an Affected Individual, and includes an “eligible data breach” as defined in the Privacy and Personal Information Protection Act 1998 (NSW) and the Privacy Act 1988 (Cth).

Documentation means the user guides, help content and technical documentation made available by Apex for the Platform, as updated from time to time.

Fees means the fees payable for the Subscription, as set out in the Order Form.

Force Majeure Event means has the meaning given in clause 35.1.

Insolvency Event means the appointment of a liquidator, administrator, receiver or similar officer, an assignment for the benefit of creditors, or an inability to pay debts as and when they fall due.

Order Form means the order form, quotation, subscription confirmation or service agreement issued by Apex and accepted by the Customer, which identifies the Customer, the Subscription Term, the Fees, and the version of these Terms that applies.

Outputs means the dashboards, graphs, tables, cohort reports, exported reports, Strategic Improvement Plan and School Excellence Plan artefacts, and other materials generated by the Platform from School Data.

Personal Information means has the meaning given in the Privacy and Personal Information Protection Act 1998 (NSW) and, where applicable, the Privacy Act 1988 (Cth), and includes Health Information as defined in the Health Records and Information Privacy Act 2002 (NSW).

Platform means the Apex Platform software-as-a-service application made available by Apex at www.apexdatasolutions.com.au, including the Dashboard, Graphs, Import Wizard, Exceptions Manager, Exporting Reports and Admin Centre components, together with the Documentation and any Updates.

Privacy Laws means the Privacy and Personal Information Protection Act 1998 (NSW), the Health Records and Information Privacy Act 2002 (NSW), the Privacy Act 1988 (Cth) (including the Australian Privacy Principles), and any other applicable law relating to the handling of Personal Information.

Professional Services means the Data Strategy Sessions and any other consulting, training or professional learning services supplied by Apex under a separate agreement.

School Data means all data uploaded to, or entered into, the Platform by or on behalf of the Customer, including student assessment data, enrolment data, cohort and class structures, Authorised User account records, and any Personal Information contained in that data. School Data does **not** include information about the Customer or its staff that Apex holds outside the Platform for its own business purposes — including work contact details obtained from publicly available sources or provided to Apex directly, correspondence, and records of Apex's dealings with the school. Apex handles that information as its own business records under its Privacy Policy, and it is not subject to clauses 11, 14 or 16.

Security Measures means the technical and organisational security measures described in Annexure B.

Service Commencement Date means the date on which the Customer's access to the Platform begins, as specified in the Order Form.

Sub-processor means a third party engaged by Apex that stores, hosts or processes School Data, as listed in Annexure A.

Subscription means the Customer's right to access and use the Platform during the Subscription Term.

Subscription Term means the period specified in the Order Form, together with any renewal under clause 20.

Updates means bug fixes, patches, enhancements and new features released by Apex for the Platform generally.

Interpretation: headings are for convenience only; the singular includes the plural; "including" and similar words are not words of limitation; a reference to legislation includes any amendment or replacement of it; and a reference to a party includes that party's permitted successors and assigns.

3. Structure of the Agreement and order of precedence

3.1 The Agreement comprises: (a) the Order Form; (b) any Schedule or annexure expressly incorporated by the Order Form; (c) these Terms, including Annexures A and B; and (d) the Documentation.

3.2 If there is an inconsistency, the documents take precedence in the order listed, with the Order Form ranking highest, except that no Order Form varies clause 12 (Privacy), clause 13 (Data breach notification), clause 14 (Data location and Sub-processors), clause 27 (Australian Consumer Law) or clause 29 (Limitation of liability) unless the variation is expressly stated to override the relevant clause and is signed by an authorised representative of each party.

3.3 Terms contained in a Customer purchase order, procurement portal or standard supplier terms do not form part of the Agreement and have no effect, other than to identify the Customer, the services ordered, the price and the delivery details — unless Apex has expressly agreed to them in writing.

3.4 Professional Services are not governed by these Terms. Professional Services are supplied under a separate Professional Services Agreement. Where Professional Services involve access to School Data held in the Platform, clauses 11 to 16 of these Terms apply to that access.

4. Acceptance and authority

4.1 The Customer accepts these Terms by the earlier of: signing or returning an Order Form; issuing a purchase order referencing an Apex quotation; or permitting an Authorised User to access the Platform.

4.2 The person accepting these Terms warrants that they hold the authority and financial delegation necessary to bind the Customer. Where the Customer is a NSW government school, the Customer warrants that acceptance has occurred in accordance with the applicable departmental delegations and procurement requirements.

4.3 If the Customer requires a purchase order, departmental approval, or completion of a vendor onboarding or assurance process before the Agreement is binding, the Customer must tell Apex before access is granted. Apex will not treat pre-approval evaluation access as acceptance of these Terms for the purposes of charging Fees.

PART B — THE PLATFORM

5. Licence to use the Platform

5.1 Subject to payment of the Fees and compliance with these Terms, Apex grants the Customer a non-exclusive, non-transferable, non-sublicensable right, for the Subscription Term, to access and use the Platform and the Documentation for the Customer's internal educational, analytical and school improvement purposes.

5.2 The right in clause 5.1 extends to all Authorised Users of the Customer, subject to any limit stated in the Order Form.

5.3 The Customer may use, reproduce, adapt and distribute Outputs internally, and may include Outputs in school improvement documentation, reporting to its department or governing body, and communications with its school community, without further charge or permission from Apex. Clause 24 applies to that use.

6. What Apex will provide

6.1 From the Service Commencement Date, Apex will: (a) make the Platform available in accordance with clause 17; (b) provide support in accordance with clause 17; (c) maintain the Security Measures; (d) host all School Data within Australia in accordance with clause 14; (e) provide the Documentation; and (f) supply the Platform with due care and skill, and in accordance with all applicable laws.

6.2 The Platform generates recommendations using deterministic, rule-based logic. Apex confirms that, as at the date of these Terms, the Platform does not use artificial intelligence, machine learning, generative AI or automated decision-making to produce Outputs. If this changes, Apex will notify the Customer under clause 18 before the change takes effect, and the Customer may terminate under clause 18.4.

7. What the Platform is not

7.1 The Platform is a decision-support tool. It analyses data the Customer supplies and presents that analysis. It does not: (a) make decisions about individual students; (b) provide educational, psychological, clinical, diagnostic, medical or legal advice; (c) replace the professional judgement of teachers, executives or principals; or (d) verify the accuracy of data supplied by the Customer or by third-party systems.

7.2 Clause 24 sets out the Customer's responsibilities in relation to the use of Outputs.

8. Authorised Users and account security

8.1 Access to the Platform is limited to Authorised Users. The Customer must not permit any student, parent, carer or member of the public to access the Platform.

8.2 The Customer must: (a) issue credentials only to individuals who are members of its staff and who require access for a legitimate work purpose; (b) ensure credentials are not shared between individuals; (c) ensure each Authorised User provides and maintains a valid mobile telephone number for the purpose of two-factor authentication, which the Platform requires at every sign-in;

(d) promptly deactivate, or ask Apex to deactivate, credentials for any individual who ceases to be a member of staff or no longer requires access; and (e) review Authorised User access at least once per Subscription Term.

8.3 The Customer is responsible for the acts and omissions of its Authorised Users as if they were the Customer's own.

8.4 Each party must notify the other promptly on becoming aware of any unauthorised access to, or use of, the Platform or any credentials.

9. Acceptable use

9.1 The Customer must not, and must not permit any person to: (a) use the Platform for any purpose other than that described in clause 5.1; (b) resell, sublicense, rent, or provide the Platform as a service to any third party; (c) use the Platform to benchmark, compare or publish results about any school other than the Customer's own, except where the Platform expressly provides that functionality; (d) reverse engineer, decompile or disassemble the Platform, except to the extent permitted by section 47D of the Copyright Act 1968 (Cth) or other non-excludable law; (e) copy, modify or create derivative works of the Platform (as distinct from Outputs); (f) circumvent or test the security of the Platform, or conduct penetration testing, without Apex's prior written consent (which will not be unreasonably withheld and which Apex will provide on reasonable conditions); (g) upload any material that is malicious, unlawful, or infringes a third party's rights; or (h) use the Platform in a way that materially degrades its performance for other customers.

9.2 Apex may investigate suspected breaches of this clause 9 and may act under clause 22.

10. Customer data responsibilities

10.1 **Right to supply.** The Customer warrants that it is entitled to upload the School Data to the Platform, and that doing so does not breach any law, policy, contract or duty of confidence, including any obligation owed to students, parents or carers.

10.2 **Data minimisation.** The Customer must upload only the data categories the Platform requires for its stated function. The Customer must not upload: (a) health information, disability records, counselling notes or wellbeing case notes; (b) child protection, mandatory reporting or risk-of-significant-harm records; (c) behaviour, discipline or suspension records containing narrative detail; (d) family, custody or court order information; or (e) any other sensitive information, unless a Platform field is expressly designed to receive it and Apex has confirmed in writing that it is in scope.

10.3 **Accuracy of source data.** The Platform ingests data exported from third-party systems, including SCOUT and SENTRAL. Apex does not control those systems and does not verify the accuracy or completeness of what they produce. The Customer is responsible for the accuracy, currency and completeness of School Data.

10.4 **Exceptions.** Where the Platform identifies a record that cannot be matched, or that appears anomalous, it will raise an exception in the Exceptions Manager. The Customer is responsible for reviewing and resolving exceptions. Apex is not responsible for Outputs that are incomplete or inaccurate because exceptions have not been resolved, provided the Platform raised the exception correctly.

10.5 **Instructions.** Apex handles School Data only on the Customer's instructions and as required to supply the Platform, or as required by law.

PART C — DATA, PRIVACY AND SECURITY

11. Ownership of School Data and Outputs

11.1 As between the parties, the Customer owns all right, title and interest in the School Data. Nothing in these Terms transfers ownership of School Data to Apex.

11.2 The Customer grants Apex a non-exclusive, royalty-free licence to host, store, copy, transmit, process and display School Data solely to the extent necessary to: (a) supply the Platform and generate Outputs for the Customer; (b) provide support requested by the Customer; (c) maintain the security, integrity and continuity of the Platform, including backups; and (d) comply with a legal obligation.

11.3 As between the parties, the Customer owns the Outputs generated from its School Data, other than the underlying templates, formats, calculation logic and design elements supplied by Apex, which remain Apex Data.

11.4 Apex will not: (a) sell, rent, licence or trade School Data; (b) use School Data for advertising, marketing or profiling directed at students, parents or carers; (c) use School Data to train any artificial intelligence or machine learning model; (d) use School Data to build a profile of an individual student for any purpose other than generating Outputs for the Customer; (e) disclose School Data to any third party except to a Sub-processor listed in Annexure A, or where required by law; (f) transfer, store or process School Data outside Australia; or (g) use School Data for any purpose other than those set out in clause 11.2, including for benchmarking, research, product development or the creation of aggregated or de-identified datasets.

12. Privacy

12.1 Apex will handle Personal Information contained in School Data in accordance with the Privacy Laws and this clause 12.

12.2 Apex acknowledges that the Customer is an agency for the purposes of the Privacy and Personal Information Protection Act 1998 (NSW) and that Apex is acting as a service provider handling Personal Information on the Customer's behalf. Apex will: (a) comply with the Information Protection Principles and Health Privacy Principles as if Apex were bound by them directly; (b) comply with the Australian Privacy Principles as if Apex were an APP entity, whether or not Apex is otherwise required to do so; (c) use Personal Information only for the purposes of supplying the Platform; (d) ensure its personnel and Sub-processors are bound by equivalent obligations; (e) not do anything that would cause the Customer to breach the Privacy Laws; and (f) assist the Customer, at no additional charge, to respond to a request by an Affected Individual to access, correct or complain about the handling of their Personal Information, within 10 Business Days of the Customer's request.

12.3 Apex maintains a publicly available Privacy Policy at www.apexdatasolutions.com.au/privacy and will notify the Customer of material changes to it.

12.4 If Apex receives a request, subpoena, notice or order from a law enforcement agency, regulator or court requiring disclosure of School Data, Apex will (unless legally prohibited) notify the Customer before disclosing, and will disclose only the minimum required.

13. Data breach notification

13.1 Apex will notify the Customer of any actual or suspected Data Breach affecting School Data as soon as practicable and in any event within 24 hours of becoming aware of it.

13.2 The notification will include, to the extent known: the nature of the breach; the categories and approximate volume of School Data and number of Affected Individuals; the likely consequences; the steps Apex has taken or proposes to take; and a contact point.

13.3 Apex will provide the Customer with all reasonable assistance and information the Customer requires to meet its own obligations, including under the Mandatory Notification of Data Breach scheme in Part 6A of the Privacy and Personal Information Protection Act 1998 (NSW) and, where applicable, Part IIIC of the Privacy Act 1988 (Cth).

13.4 Apex will not notify Affected Individuals, the public or a regulator about a Data Breach affecting School Data without first consulting the Customer, except where Apex is independently required by law to do so.

13.5 Apex will take immediate steps to contain and remediate the breach and will provide the Customer with a written post-incident report within 10 Business Days of containment.

13.6 Apex maintains a documented Data Breach Response Plan and reviews it at least annually. The Plan covers privacy, security and online safety incidents, and requires every such incident to be investigated, remediated and recorded in an incident register.

14. Data location and Sub-processors

14.1 All School Data is stored and processed in Australia. Apex will not transfer School Data outside Australia, and will not permit remote access to School Data from outside Australia, without the Customer's prior written consent.

14.1A Apex will not grant any Authorised User access to the Platform until every Sub-processor listed in Annexure A is in place and operating in Australia.

14.2 Apex may engage Sub-processors to assist in supplying the Platform. The current Sub-processors are listed in Annexure A.

14.3 Apex will: (a) impose on each Sub-processor obligations no less protective than those in clauses 11 to 16; (b) remain liable to the Customer for the acts and omissions of its Sub-processors as if they were Apex's own; and (c) notify the Customer at least 30 days before adding or replacing a Sub-processor that will have access to School Data. If the Customer reasonably objects on privacy or security grounds within that period, the parties will discuss in good faith; if no resolution is reached, the Customer may terminate the Agreement by written notice and Apex will refund prepaid Fees for the unexpired portion of the Subscription Term on a pro-rata basis.

15. Security

15.1 Apex implements and maintains the Security Measures set out in Part A of Annexure B, and will implement the measures set out in Part B of Annexure B by the dates stated, in each case before any Customer's Service Commencement Date. Apex will not materially reduce the overall level of security provided during the Subscription Term.

15.2 From the Service Commencement Date, Apex will: (a) encrypt School Data in transit and at rest; (b) maintain logical separation between customers' data; (c) maintain environment separation, and use only synthetic or de-identified data in development and test environments; (d) manage secrets and credentials through a managed secrets service; (e) maintain audit logging of authentication events and of access to School Data; (f) apply role-based access control on a least-privilege basis, and restrict production access to named personnel; (g) maintain backups and test restoration from backup at least annually; and (h) revoke access promptly when personnel or contractors cease to require it.

15.3 **Assurance.** Apex will, at no charge: (a) complete and maintain a Safer Technologies for Schools (ST4S) assessment and provide the Customer with its current ST4S status on request; (b) respond to the Customer's reasonable security and privacy questionnaires once per Subscription Term; and (c) commission independent penetration testing of the Platform, commencing no later than 1 July 2027 and recurring at least every 24 months thereafter, and provide the Customer with a summary report of the most recent test on request.

15.4 Clause 15.3 does not entitle the Customer to conduct an on-site audit of Apex's premises or systems, other than where required by law or by a written direction of the NSW Department of Education, in which case the parties will agree reasonable scope, timing and cost-sharing arrangements.

16. Retention, export and deletion

16.1 During the Subscription Term, the Customer may export its School Data and Outputs at any time using the Platform's export functions.

16.2 On expiry or termination of the Agreement, Apex will, in each case measured from the **Deletion Start Date** — being the date of the written notice or written confirmation of termination, or the date of expiry, whichever applies:

(a) make School Data available for export for 30 days from the Deletion Start Date; (b) on the Customer's written request within that period, provide a complete export of School Data in a machine-readable format at no charge; (c) securely delete or de-identify all School Data in its production systems within 60 days of the Deletion Start Date; and (d) delete School Data from backups in accordance with its backup rotation cycle, being no longer than 90 days from the Deletion Start Date.

16.3 Apex will provide written certification of deletion on request, covering production systems and backup copies.

16.4 The Customer acknowledges that School Data may constitute a State record under the State Records Act 1998 (NSW) and that the Customer, not Apex, is responsible for meeting its recordkeeping and disposal obligations. Apex will not delete School Data during the Subscription Term other than at the Customer's direction, in accordance with clause 16.2, or as required by law.

PART D — SERVICE, SUPPORT AND CHANGES

17. Availability and support

17.1 Apex will use reasonable endeavours to make the Platform available at least 99.5% of the time in each calendar month, excluding: (a) planned maintenance notified in accordance with clause 17.2; (b) emergency maintenance; (c) unavailability caused by the Customer, its Authorised Users, or the Customer's network or equipment; and (d) a Force Majeure Event.

17.2 Apex will schedule planned maintenance outside 7:00am–5:00pm AEST/AEDT on Business Days wherever practicable, and will give the Customer at least 5 Business Days' notice.

17.3 **Support hours and channels.** Support is available between 8:30am and 4:30pm AEST/AEDT on Business Days (**Support Hours**), by email at admin@apexdatasolutions.com.au and by telephone on 0426 285 495. Support is provided from Australia by Apex personnel. There is no third-party helpdesk and no offshore support desk, and support does not require remote access to Customer devices.

17.4 **Requests outside Support Hours.** The Customer may send an email at any time. A request received outside Support Hours is treated as received at the start of the next Business Day. Apex does not commit to a response time outside Support Hours.

17.5 Within Support Hours, Apex will use reasonable endeavours to meet the following initial response targets.

Severity	Description	Target initial response
P1 — Critical	Platform unavailable, or School Data at risk	4 business hours
P2 — High	Major function unavailable; no workaround	1 Business Day
P3 — Medium	Function impaired; workaround available	3 Business Days
P4 — Low	Question, minor issue, or enhancement request	5 Business Days

17.6 There is no limit on the number of support requests a Customer may make. Support, Updates and patches are included in the Fees; the Customer installs nothing.

17.7 Response targets are targets, not guarantees, and do not create service credits. However, if availability falls below the target in clause 17.1 in three consecutive calendar months, the Customer may terminate the Agreement by written notice given within 30 days after the third month, and Apex will refund prepaid Fees for the unexpired portion of the Subscription Term on a pro-rata basis.

17.8 Apex will notify the Customer of any unplanned outage expected to exceed 4 hours, and will provide a written cause summary for any P1 incident within 5 Business Days of resolution.

18. Changes to the Platform

18.1 Apex may release Updates to the Platform from time to time. Updates are included in the Subscription at no additional charge.

18.2 Apex will not make a change that materially reduces the core functionality of the Platform during a Subscription Term without giving the Customer at least 60 days' written notice.

18.3 Apex will give the Customer at least 60 days' written notice before: (a) introducing artificial intelligence, machine learning or automated decision-making into the generation of Outputs; (b) changing the location where School Data is stored or processed; (c) materially changing the categories of School Data collected; or (d) discontinuing a Platform component identified in the Order Form.

18.4 If a change under clause 18.2 or 18.3 has a material adverse effect on the Customer, the Customer may terminate the Agreement by written notice given within 30 days of the notice, and Apex will refund prepaid Fees for the unexpired portion of the Subscription Term on a pro-rata basis.

18.5 Apex may make changes required to comply with law or to address a security vulnerability without prior notice, and will notify the Customer as soon as practicable afterwards.

PART E — COMMERCIAL TERMS

19. Fees, invoicing and taxes

19.1 The Customer must pay the Fees set out in the Order Form.

19.2 The Fees cover the Subscription for the Subscription Term. Changes in the Customer's enrolment, staffing or Authorised User numbers during a Subscription Term do not change the Fees for that Term.

19.3 Apex will invoice the Fees annually in advance, unless the Order Form provides otherwise. Payment is due within 30 days of the date of a correctly rendered tax invoice.

19.4 Where the Customer requires a purchase order number to appear on invoices, the Customer must provide it before the invoice date. Apex is not in breach for late supply of an invoice caused by a delay in the Customer providing a purchase order.

19.5 All Fees are exclusive of GST. GST will be added at the applicable rate and shown separately on a valid tax invoice.

19.6 If an invoice remains unpaid 30 days after its due date, Apex may, after giving 14 days' written notice and an opportunity to remedy, charge interest on the outstanding amount at the Reserve Bank of Australia cash rate plus 2% per annum, calculated daily. Apex will not charge interest where the Customer has disputed the invoice in good faith under clause 19.7.

19.7 If the Customer disputes an invoice in good faith, it must notify Apex within 14 days of receipt, setting out the basis of the dispute. The Customer must pay the undisputed portion by the due date. The parties will resolve the dispute under clause 36.

19.8 Fees are non-refundable except where these Terms expressly provide for a refund.

20. Term and renewal

20.1 The Agreement commences on the date the Customer accepts these Terms and continues for the Subscription Term.

20.2 The Subscription Term will renew automatically for successive periods of 12 months unless either party gives written notice of non-renewal at least 14 days before the end of the then-current Subscription Term.

20.3 Apex will send the Customer a renewal notice at least 60 days before the end of each Subscription Term, setting out the renewal date, the Fees that will apply on renewal, and the date by which the Customer must give notice under clause 20.2.

20.4 Apex may vary the Fees on renewal, provided the variation is notified in the renewal notice under clause 20.3. If the Customer does not accept the varied Fees, the Customer may give notice of non-renewal under clause 20.2 and the Agreement will end at the expiry of the then-current Subscription Term with no further liability for Fees.

20.5 Apex will not increase Fees during a Subscription Term.

21. Evaluation access

21.1 Apex may make the Platform available on an evaluation basis. Where it does: (a) the evaluation applies for the period stated in writing by Apex; (b) clauses 10 to 16 (data, privacy, security) apply in full; (c) clauses 17 (availability and support) and 26 (Apex warranties) apply only to the extent Apex expressly agrees in writing; (d) either party may end the evaluation at any time on written notice; and (e) Apex will delete School Data uploaded during the evaluation in accordance with clause 16.2 unless the Customer commences a standard Subscription Term.

22. Suspension

22.1 Apex may suspend access to the Platform, in whole or in part, where: (a) Apex reasonably believes suspension is necessary to protect the security or integrity of the Platform or of School Data; (b) the Customer has materially breached clause 9 (Acceptable use) or clause 10.2 (Data minimisation); or (c) an invoice remains unpaid more than 60 days after its due date.

22.2 Except where immediate suspension is necessary to address a security risk, Apex will give the Customer at least 10 Business Days' written notice and an opportunity to remedy before suspending.

22.3 Apex will limit any suspension to what is reasonably necessary and will restore access promptly once the cause is resolved. Suspension does not relieve the Customer of the obligation to pay Fees for the period of suspension, except where the suspension was not justified under clause 22.1.

22.4 Suspension does not affect the Customer's rights under clause 16 to export School Data, and Apex will make School Data available for export on request during any suspension. This does not apply where Apex reasonably considers that providing an export would create or worsen a security risk, including where a Data Breach is suspected or under investigation. In that case Apex will provide the export as soon as it can safely be provided, and will keep the Customer informed of the position in the meantime.

23. Termination

23.1 Either party may terminate the Agreement immediately by written notice if the other party: (a) commits a material breach that is capable of remedy and fails to remedy it within 20 Business Days of written notice specifying the breach; (b) commits a material breach that is not capable of remedy; or (c) suffers an Insolvency Event.

23.2 The Customer may terminate the Agreement immediately by written notice if Apex breaches clause 11.4, clause 14.1, or suffers a Data Breach that Apex fails to contain within a reasonable period.

23.3 The Customer may terminate the Agreement for convenience on 30 days' written notice. Prepaid Fees are not refundable on termination under this clause, and the Customer may continue to access the Platform until the end of the period for which Fees have been paid unless it asks Apex to disable access sooner. There is no early termination fee, penalty or exit charge.

23.4 Apex may terminate the Agreement for convenience on not less than 90 days' written notice, effective no earlier than the end of the then-current Subscription Term, and will refund any prepaid Fees for the unexpired portion of the Subscription Term on a pro-rata basis.

23.5 On expiry or termination: (a) the Customer's right to access the Platform ends; (b) the Customer must pay all Fees accrued to the effective date; (c) clause 16 applies to School Data; (d) each party must return or destroy the other's Confidential Information, subject to clause 31.5; and (e) clauses 7, 11, 12, 13, 16, 24, 25, 26, 27, 28, 29, 31, 36 and 38 survive, together with any other clause that by its nature is intended to survive.

PART F — RISK, LIABILITY AND ASSURANCE

24. Use of Outputs — Customer responsibility

24.1 Outputs are generated from School Data using rule-based logic. Their usefulness depends on the accuracy and completeness of School Data.

24.2 The Customer acknowledges and agrees that: (a) the Customer, and not Apex, is responsible for all decisions made in reliance on Outputs; (b) Outputs must not be used as the sole basis for a decision that materially affects an individual student, including decisions about placement, streaming, grouping, referral, intervention, assessment adjustment, or reporting to a parent or carer; (c) all such decisions must be informed by the professional judgement of appropriately qualified staff and by other sources of evidence; (d) standardised assessment results, including NAPLAN, carry measurement error, and results for small cohorts are subject to greater variability; (e) changes to national assessment scales and proficiency reporting — including the 2023 NAPLAN measurement scale reset — mean that results across certain years are not directly comparable, and the Customer is responsible for satisfying itself as to the appropriateness of any comparison it draws; and (f) the Customer is responsible for how it interprets, contextualises and communicates Outputs to its staff, its school community and its department.

24.3 Apex will use reasonable care and skill in designing the Platform's calculation logic and will correct any material error in that logic that it identifies or that is notified to it, as a priority.

24.4 Nothing in this clause 24 limits Apex's liability for its own breach of these Terms, its negligence, or the non-excludable rights in clause 27.

25. Customer warranties

25.1 The Customer warrants that: (a) it has the authority to enter into the Agreement; (b) it will comply with all laws and departmental policies applicable to its use of the Platform; (c) the warranties in clause 10.1 are true; and (d) it will not use the Platform for any purpose that is unlawful or contrary to these Terms.

26. Apex warranties

26.1 Apex warrants that: (a) it has the authority to enter into the Agreement and to grant the rights in clause 5; (b) the Platform does not infringe the intellectual property rights of any third party; (c) it will supply the Platform with due care and skill and in a professional manner consistent with industry standards for education technology providers; (d) it will comply with all laws applicable to it in supplying the Platform, including the Privacy Laws as applied by clause 12; (e) it will use commercially available and current methods to prevent the introduction of malicious code into the Platform; (f) it will hold, from the Service Commencement Date, and will maintain, the insurances required by clause 30; and (g) all School Data will be stored and processed in Australia in accordance with clause 14.1.

26.2 Other than as expressly stated in these Terms, and subject to clause 27, Apex gives no warranty that the Platform will be uninterrupted, error-free, or that it will meet the Customer's particular requirements.

27. Australian Consumer Law

27.1 Certain rights and guarantees are conferred by the Australian Consumer Law (Schedule 2 to the Competition and Consumer Act 2010 (Cth)) and other laws, and cannot be excluded, restricted or modified. Nothing in these Terms excludes, restricts or modifies those rights or guarantees (**Non-Excludable Rights**).

27.2 To the extent permitted by law, Apex's liability for breach of a Non-Excludable Right in relation to services is limited, at Apex's election, to: (a) supplying the services again; or (b) paying the cost of having the services supplied again.

27.3 Clause 27.2 does not apply where it would not be fair or reasonable for Apex to rely on it.

28. Indemnities

28.1 Apex indemnifies the Customer against any liability, loss, damage, cost or expense (including reasonable legal costs) arising from a third-party claim that the Platform infringes that third party's intellectual property rights, provided the Customer: (a) notifies Apex promptly; (b) does not admit liability without Apex's consent; and (c) allows Apex to control the defence and settlement, and provides reasonable assistance at Apex's cost.

28.2 If a claim under clause 28.1 arises or is likely, Apex may at its own cost modify the Platform to make it non-infringing, procure the right for the Customer to continue using it, or, if neither is reasonably achievable, terminate the Agreement and refund prepaid Fees for the unexpired portion of the Subscription Term.

28.3 Clause 28.1 does not apply to the extent the claim arises from School Data, from the Customer's breach of these Terms, or from use of the Platform in combination with materials not supplied by Apex where the infringement would not have occurred but for that combination.

28.4 The Customer indemnifies Apex against any liability, loss, damage, cost or expense (including reasonable legal costs) arising from a third-party claim that the School Data, or Apex's handling of School Data in accordance with the Customer's instructions and these Terms, infringes a third party's rights or breaches a law — except to the extent the claim arises from Apex's own breach of these Terms or its negligence.

28.5 Each indemnity is reduced proportionally to the extent that the indemnified party's own act or omission contributed to the loss.

29. Limitation of liability

29.1 This clause 29 is subject to clause 27 (Australian Consumer Law) and clause 29.4.

29.2 **Exclusion of indirect loss.** Neither party is liable to the other for any loss of profit, loss of revenue, loss of anticipated savings, loss of opportunity, loss of goodwill, or any indirect or consequential loss, however arising.

29.3 **Cap on liability.** The total aggregate liability of each party to the other under or in connection with the Agreement, whether in contract, tort (including negligence), under statute or otherwise, is limited to AUD \$250,000.

29.4 **Carve-outs.** Clauses 29.2 and 29.3 do not apply to: (a) liability for death or personal injury caused by a party's negligence; (b) fraud, wilful misconduct or a criminal act; (c) a party's

obligation to pay Fees properly due; (d) Apex's liability under the indemnity in clause 28.1; (e) the Customer's liability under the indemnity in clause 28.4; or (f) breach of clause 31 (Confidentiality).

29.5 Mitigation and contribution. Each party must take reasonable steps to mitigate its loss. A party's liability is reduced proportionally to the extent that the other party's act or omission caused or contributed to the loss.

30. Insurance

30.1 Apex will hold, from the Service Commencement Date, and will maintain with a reputable insurer authorised to conduct insurance business in Australia, for the Subscription Term and for 7 years afterwards where the policy is written on a claims-made basis:

Policy	Minimum limit
Cyber liability	AUD \$500,000 in the aggregate

30.2 Apex will provide certificates of currency on request, and will notify the Customer if a policy is cancelled or materially reduced.

30.3 Apex does not currently hold professional indemnity or public liability insurance. For that reason Apex does not deliver professional learning at Customer sites. Where Apex later offers on-site services, the applicable insurances will be set out in the Professional Services Agreement before those services are delivered.

31. Confidentiality

31.1 **Confidential Information** means information disclosed by one party to the other that is marked confidential or that a reasonable person would regard as confidential, and includes School Data (the Customer's Confidential Information) and Apex Data, pricing and non-public product information (Apex's Confidential Information).

31.2 Each party must keep the other's Confidential Information confidential, use it only for the purposes of the Agreement, and disclose it only to personnel and advisers who need to know it and who are bound by equivalent obligations.

31.3 Clause 31.2 does not apply to information that is or becomes public other than through breach, was already lawfully known to the recipient, or is independently developed.

31.4 A party may disclose Confidential Information where required by law, by a court, by a parliamentary body, or under the Government Information (Public Access) Act 2009 (NSW). Where a party is required to disclose, it will (if lawful) notify the other party first and consult on the scope of disclosure. The Customer may disclose the Agreement and its terms as required by NSW Government contract disclosure obligations.

31.5 A party need not destroy Confidential Information that it is required by law or its records management policy to retain, provided it continues to protect it under this clause 31.

31.6 The existence of the Agreement, and the fact that the Customer is a customer of Apex, are not Confidential Information, and clause 34 applies to their disclosure.

32. Child safety

32.1 The Platform does not provide access to students and Apex personnel do not have direct contact with students through the Platform.

32.2 Apex will ensure that every individual who holds access to School Data, and every individual who attends a Customer site on Apex's behalf, holds a current Working With Children Check clearance under the Child Protection (Working With Children) Act 2012 (NSW). Apex will provide the clearance number and date of birth for verification on request.

32.3 Apex will comply with the Child Safe Standards and any reasonable site-specific child protection, visitor and site induction requirements notified by the Customer.

33. Accessibility

33.1 Apex will use reasonable endeavours to design the Platform to conform with the Web Content Accessibility Guidelines (WCAG) 2.1 Level AA.

33.2 Apex will provide an accessibility conformance statement on request and will address material accessibility defects notified by the Customer as part of its ordinary release cycle.

PART G — GENERAL

34. Naming and publicity

34.1 **Apex may name the Customer.** The Customer grants Apex a non-exclusive, royalty-free licence, for the term of the Agreement and afterwards, to use the Customer's name and logo, and to state that the Customer is or was a customer of Apex, in Apex's website, marketing materials, proposals, tender responses, case studies and presentations.

34.2 **The Customer may name Apex.** Apex grants the Customer a non-exclusive, royalty-free licence to use the Apex name and logo, and to state that the Customer uses the Apex Platform, in the Customer's newsletters, website, school improvement documentation, presentations and communications with its school community and with other schools.

34.3 Neither party may: (a) state or imply that the other endorses, recommends or is in a partnership or joint venture with it; (b) attribute a quotation or testimonial to the other, or to a named individual, without that party's prior written consent; or (c) use the other's name or logo in a manner that is misleading, that damages the other's reputation, or that departs from any brand guidelines the other has notified in writing.

34.4 Either party may withdraw the licence in clause 34.1 or 34.2 by 30 days' written notice, after which the other party will remove the name and logo from materials it actively publishes or distributes. Neither party is required to recall, destroy or amend materials already printed, distributed or archived.

34.5 The Customer acknowledges that it is responsible for ensuring that any use of the Apex name under clause 34.2 complies with the policies of its department or governing body, including any policy restricting the endorsement of commercial suppliers.

35. Force majeure and business continuity

35.1 A **Force Majeure Event** is an event beyond a party's reasonable control, including natural disaster, pandemic, war, terrorism, industrial action (other than involving that party's own personnel), and failure of a public telecommunications or electricity network. It does not include a party's inability to pay, or an event that the party could have avoided by taking reasonable precautions.

35.2 A party is not liable for failure to perform (other than an obligation to pay money) to the extent caused by a Force Majeure Event, provided it notifies the other party promptly and uses reasonable endeavours to resume performance.

35.3 If a Force Majeure Event prevents performance for more than 30 consecutive days, either party may terminate the Agreement by written notice, and Apex will refund prepaid Fees for the unexpired portion of the Subscription Term on a pro-rata basis.

35.4 **Business continuity and disaster recovery.** Apex maintains a documented Business Continuity Plan covering backup, restoration, preservation of records and denial of service, and reviews it at least annually. Apex will provide a summary of the Plan to the Customer on request. Apex will complete a documented test of restoration from backup by 1 October 2026, before any Customer's Service Commencement Date, and will repeat that test at least annually, as committed

at item B3 of Annexure B. Apex will make the date and outcome of the most recent restoration test available to the Customer on request, and will use reasonable endeavours to restore the Platform following a disruption.

36. Dispute resolution

36.1 Before commencing proceedings (other than for urgent interlocutory relief), a party must give the other written notice of the dispute setting out its nature and the outcome sought.

36.2 Within 10 Business Days of the notice, senior representatives of each party must meet and attempt in good faith to resolve the dispute.

36.3 If the dispute is not resolved within 20 Business Days of the notice, either party may refer it to mediation administered by the Australian Disputes Centre in Sydney, with the parties sharing the mediator's costs equally.

36.4 Each party must continue to perform its obligations while a dispute is on foot.

37. Variation of these Terms

37.1 Apex may vary these Terms from time to time. Apex will give the Customer at least 30 days' written notice of any variation, and will publish the varied Terms at www.apexdatasolutions.com.au/terms with a version number and effective date.

37.2 A variation does not apply retrospectively, and does not vary the Fees payable during the then-current Subscription Term. Until a variation takes effect under this clause, the Customer remains on the version of these Terms incorporated by its Order Form.

37.3 If a variation has a material adverse effect on the Customer, the Customer may terminate the Agreement by written notice given within 30 days of Apex's notice, and Apex will refund prepaid Fees for the unexpired portion of the Subscription Term on a pro-rata basis.

37.4 A variation required to comply with law takes effect on the date required by that law, and Apex will notify the Customer as soon as practicable.

37.5 Any other variation of the Agreement must be in writing and signed by both parties.

38. Assignment and subcontracting

38.1 Neither party may assign or novate the Agreement without the other's prior written consent, which must not be unreasonably withheld.

38.2 Apex may assign or novate the Agreement to a related body corporate, or to a purchaser of all or substantially all of its business or assets, on written notice to the Customer, provided the assignee assumes all of Apex's obligations, including under clauses 11 to 16. If the assignment would result in School Data being stored, processed or accessible outside Australia, or in a material reduction in the protections in clauses 11 to 16, the Customer may terminate the Agreement by written notice and Apex will refund prepaid Fees for the unexpired portion of the Subscription Term on a pro-rata basis.

38.3 Apex may subcontract performance of its obligations but remains liable for its subcontractors' acts and omissions. Sub-processors handling School Data are governed by clause 14.

39. Notices

39.1 A notice under the Agreement must be in writing and sent to the contact details in the Order Form, or to admin@apexdatasolutions.com.au for Apex.

39.2 A notice is taken to be received: if sent by email, at the time it enters the recipient's information system, unless a delivery failure is received; and if delivered by hand or post, on delivery or on the 5th Business Day after posting.

39.3 Notices of breach, suspension or termination must be given by email and by post.

40. General

40.1 **Governing law.** The Agreement is governed by the laws of New South Wales. The parties submit to the non-exclusive jurisdiction of the courts of New South Wales.

40.2 **Entire agreement.** The Agreement is the entire agreement between the parties on its subject matter and supersedes all prior representations, other than a representation made fraudulently.

40.3 **Severance.** If a provision is unenforceable, it is severed to the minimum extent necessary and the rest of the Agreement continues.

40.4 **Waiver.** A failure or delay in exercising a right is not a waiver of it. A waiver must be in writing.

40.5 **Relationship.** The parties are independent contractors. Nothing creates a partnership, joint venture, employment or agency relationship.

40.6 **No third party rights.** No person other than the parties has any right to enforce the Agreement.

40.7 **Counterparts.** An Order Form may be executed in counterparts, including electronically.

40.8 **Compliance with Customer policies.** Apex will comply with any reasonable site, security, work health and safety and conduct policies notified by the Customer in writing, to the extent they are relevant to Apex's performance and not inconsistent with these Terms.

41. Contact

Apex Data Solutions Pty Ltd, ABN 71 670 512 857 / ACN 670 512 857, 13 Draper Avenue, Roselands NSW 2196, www.apexdatasolutions.com.au.

All enquiries, including support, privacy, notices and security incident reporting: admin@apexdatasolutions.com.au. Support by telephone during Support Hours on 0426 285 495.

ANNEXURE A — SUB-PROCESSORS

These are the third parties that store, host or process School Data on Apex's behalf. Every one of them operates in Australia.

Sub-processor	Purpose	Data categories	Location
Microsoft Azure (Microsoft Pty Ltd)	Application hosting, database, storage and backup	All School Data	Australia — Australia Southeast
Microsoft Entra External ID (Microsoft Pty Ltd)	Authentication and Authorised User account records	Authorised User name, email address, mobile telephone number, credential and sign-in metadata	Australia
Azure Communication Services (Microsoft Pty Ltd)	Delivery of two-factor authentication codes by SMS	Authorised User mobile telephone number and verification code	Australia
Microsoft 365 (Microsoft Pty Ltd)	Business email and correspondence with Authorised Users	Authorised User name, email address, and any information an Authorised User includes in correspondence	Australia

Apex maintains this list and will notify Customers of changes in accordance with clause 14.3(c).

This Annexure states the Sub-processors that will handle School Data from the Service Commencement Date. Apex will not grant any Authorised User access to the Platform until each is in place, as provided in clause 14.1A. The authentication and SMS entries take effect on completion of the migrations committed at items B7 and B8 of Annexure B.

Apex does not use any third-party service outside Australia to store or process School Data.

Apex also uses a customer relationship management system to hold the work contact details of school staff — name, role, school, work email and work phone. That system holds no School Data, no student information and no Platform account or credential data, and it is not a Sub-processor for the purposes of this Annexure. Apex's account in that system is hosted in Australia, subject to the limited offshore access described in the Apex Privacy Policy, where the arrangement is set out in full.

ANNEXURE B — SECURITY MEASURES

The Apex Platform is being prepared for service commencement in Term 4, 2026. This Annexure distinguishes controls that are in place now from controls that Apex commits to have in place before any Customer's Service Commencement Date. Every commitment carries a date.

Part A — Controls in place

A1. Hosting and data residency

The Apex Platform is hosted on Microsoft Azure in the Australia Southeast region. All School Data is stored and processed in Australia. No production system is accessible from outside Australia.

A2. Encryption in transit

All traffic to the Platform is served over HTTPS, with plain HTTP redirected to HTTPS. Only TLS 1.3 and TLS 1.2 are supported; TLS 1.1, TLS 1.0, SSL 3 and SSL 2 are disabled. HTTP Strict Transport Security is enabled with a long duration. The Platform holds a Qualys SSL Labs rating of A+.

A3. Encryption at rest

The production database is encrypted at rest. Backups and file storage are encrypted at rest.

A4. Authentication

Two-factor authentication is mandatory at every sign-in: a one-time code is delivered by SMS to a mobile number nominated by the Authorised User. Passwords must be at least eight characters and include an upper-case letter, a number and a special character. The authentication and message delivery services that will provide this from the Service Commencement Date are committed at items B7 and B8 of Part B. From the date item B7 is complete, credential storage, password reset and session lifetime are managed by Microsoft Entra External ID to that service's standards.

A5. Access control

Access to School Data in production is restricted to named individuals on a least-privilege basis. The Platform applies role-based access control, so an Authorised User's access is determined by their role. Access is reviewed at least every six months, and on any change of role or departure.

A6. Separation between Customers

Each Customer's data is logically separated from every other Customer's. Apex maintains automated tests that verify a user belonging to one Customer cannot access another Customer's data, and these tests form part of the automated test suite.

A7. Environment separation

Development, test and production are maintained as separate environments, all within Australian Azure regions. No real school data is used in development or testing; these environments use synthetic data only.

A8. Authentication logging

Authentication events are logged, including who signed in and when.

A9. Backup

Backups are taken automatically by the Azure hosting platform and are encrypted at rest. The backup schedule and retention period are confirmed and documented as committed at item B11 of Part B; Apex states the position this way rather than asserting a frequency it has not verified against the platform configuration.

A10. Patch management

Security patches assessed as critical are applied within 14 days of release.

A11. Secure development

Development is performed against non-production environments only. Where AI-assisted development tooling is used, it has access to source code in development environments only, and has no access to production systems or to School Data.

A12. Personnel

Apex is a sole-operator business. Access to production systems and to School Data is held by one individual, who is resident in and works from Australia. A current Working With Children Check clearance is held by every individual with access to School Data and by every individual attending a school site.

A13. Incident response

Apex maintains a documented Data Breach Response Plan, approved 19 August 2026 and reviewed at least annually. The Plan covers privacy, security and online safety incidents and requires each to be investigated, remediated and recorded in an incident register. Apex will notify an affected Customer within 24 hours of becoming aware of a Data Breach affecting that Customer's School Data.

A14. Business continuity

Apex maintains a documented Business Continuity and Disaster Recovery Plan covering backup, restoration, preservation of records and denial of service, reviewed at least annually. A summary is available to Customers on request.

Part B — Controls committed before service commencement

Apex commits to having each of the following in place by 1 October 2026, in every case before any Customer's Service Commencement Date.

Ref	Control	In place by
B1	Secrets management. Application secrets, keys and connection strings managed through Azure Key Vault. No secrets stored in source code or configuration files.	1 October 2026
B2	Audit logging of School Data access. Logging of access to, and export of, School Data, sufficient to establish which records were involved in an incident.	1 October 2026
B3	Backup restoration testing. Documented restoration of a backup into a non-production environment, verifying that backups are recoverable. Repeated at least annually thereafter.	1 October 2026

Ref	Control	In place by
B4	Dependency and secret scanning. Automated scanning of third-party code libraries for known vulnerabilities, and automated detection of credentials committed to source control.	1 October 2026
B5	Alerting on anomalous activity. Automated alerting on unusual patterns, including repeated failed sign-ins and bulk data export.	1 October 2026
B6	Cyber liability insurance. Cover to the limit stated in clause 30.	1 October 2026
B7	Authentication migrated to Microsoft Entra External ID, with the tenant data location set to Australia. Authorised User account records held in Australia from that date.	1 October 2026
B8	Two-factor code delivery migrated to Azure Communication Services, with message processing in Australia.	1 October 2026
B9	Cyber security awareness training. Completion of recognised cyber security awareness training by every individual with access to School Data, with the completion date recorded. Repeated at least annually thereafter.	1 October 2026
B10	Application security baseline. Apex uses OWASP ASVS v5.0.0 Level 1 as its application-security engineering and verification baseline.	1 October 2026
B11	Backup schedule and retention. Daily automated backup of the production database and file storage, encrypted at rest, held in Australian Azure regions, with a documented retention period no longer than 90 days and automatic expiry of backups beyond it. The configured schedule and retention period are recorded and made available to a Customer on request.	1 October 2026

Part C — Longer-term commitment

The following is committed on a longer horizon and is stated here so a Customer can hold Apex to the date.

Ref	Control	In place by
C1	Independent penetration testing. Testing of the Platform by an independent provider, with a summary report available to Customers on request, recurring at least every 24 months thereafter.	1 July 2027