



Supplementary terms for the supply of Apex Services

The Services set out in these Supplementary Terms shall be supplied by the Company to the Client on the terms and conditions set out in the Company's General Terms and Conditions and these Supplementary Terms.

1. SUPPLEMENTARY DEFINITIONS

- 1.1 'Apex Services' means the services described in the Service Schedule.
- 1.2 'Change Request' means a written request made by the Client for a change to the configuration or functionality of the Apex Services.
- 1.3 'Data Centre' means the Company's facility built to securely house Nexus Point's servers which host the Apex Services.
- 1.4 'Emergency Maintenance' means any period of maintenance for which, due to reasons beyond its reasonable control, the Company is unable to provide prior notice of.
- 1.5 'End User' means a user of the Services subscribed to by the Client.
- 1.6 'Module' means a functional module of the Apex Services.
- 1.7 'Planned Maintenance' means any period of maintenance for which the Company has provided prior notice.
- 1.8 'Platform' means the physical infrastructure, including software, on which the Apex Service operates.
- 1.9 'Public Internet' means the world-wide collection of private and public router-based networks that are interconnected via gateways and exchange points.
- 1.10 'Services' means Apex Services and helpdesk services.

2. TERM

- 2.1 This Agreement will be deemed to come into effect on the Commencement Date and shall run for the Minimum Term as set out on the Order and thereafter for Additional Terms until terminated by either party in accordance with the terms of this Agreement.
- 2.2 The Company shall not less than the Minimum Notice Period prior to the end of the Minimum Term or any Additional Term thereafter, notify the Client of changes to charges and any other changes to the terms of this Agreement. In the event that:
 - 2.2.1 The Client serves notice to terminate this Agreement in accordance with clause 11 of the General Terms and Conditions or clause 9 hereof, this Agreement shall terminate on the expiry of the Minimum Term or any Additional Term; or
 - 2.2.2 The Client notifies the Company of acceptance of changes, the Agreement shall continue in force for the duration of an Additional Term; or
 - 2.2.3 The Client fails to notify the Company of acceptance of changes and fails to serve notice to terminate, such failures to notify the Company shall imply that the changes have been accepted and the Agreement shall continue in force for the duration of an Additional Term.

3. PROVISION OF SERVICES

- 3.1 Apex Services are a Software-as-a-Service (SaaS) service that is provided by the Company, which is accessed by the Client using independently supplied network services, which for the avoidance of doubt, are not covered by the terms of this Agreement.
- 3.2 The Services comprise Apex Services and Helpdesk Services as set out in the Order and described in the attached Service Schedule. The Company shall use reasonable endeavours to

provide the Apex Services twenty-four hours per day, subject to the limitations expressed in this Agreement.

- 3.3 The Apex Services shall include the following Modules as set out in the Order:
 - 3.3.1 Apex DMS – Dealer Management System;
 - 3.3.2 Apex CMS – Content Management System;
 - 3.3.3 Apex KPI – Dealer Reporting;
 - 3.3.4 Apex CRM – Customer Relationship Management;
 - 3.3.5 Apex Adfeeder – Aggregator for pay per click services.
 - 3.3.6 Apex eCom – e-Commerce solution.
- 3.4 If the supply of the Apex App is set out on the Order, the Company will grant a royalty-free, non-exclusive, non-transferable licence to use the Apex App for the duration of this Agreement.
- 3.5 The Company shall use reasonable endeavours to provide the Apex Services set out in the Order to the Client, subject to acceptance of the Client's Order, from the RFS Date. During the Run-Up Period, the Company shall carry out the necessary pre-service provision activities, including setup and configuration.
- 3.6 During the term of this Agreement, the Company shall be entitled to:
 - 3.6.1 Change the technical specification of the Apex Services for operational reasons, statutory or regulatory requirements PROVIDED THAT such changes do not materially adversely affect the quality or performance of the Apex Services;
 - 3.6.2 Make alterations to the Apex Services. Such alterations may result in temporary disruption to the Apex Services and the Company will use reasonable endeavours to minimise such disruption and will provide as much notice as possible.
- 3.7 The Company cannot guarantee and does not warrant that the Apex Services will be free from interruptions, including interruption of the Apex Services for operational reasons and temporary degradation of the quality of the services.
- 3.8 Although the Company will use reasonable endeavours to ensure the accuracy and quality of the Services, the Services are provided on an "as is" basis and the Company does not make any representations as to the accuracy, comprehensiveness, completeness, quality, currency, error-free nature, compatibility, security or fitness for the Client's purpose of the Services.

4. ACCEPTABLE USE

- 4.1 The Client agrees to use the Apex Services in accordance with the provisions of this Agreement, any relevant Service literature and all other reasonable instructions issued by the Company from time to time.
- 4.2 The Client agrees to ensure that the Apex Services are not used by its End Users to:
 - 4.2.1 Post, download, upload or otherwise transmit materials or data which is abusive, defamatory, obscene, indecent, menacing or disruptive;
 - 4.2.2 Post, download, upload or otherwise transmit materials or data uploads or make other communications in breach of the rights of third parties, including but not limited to those of quiet enjoyment, privacy and copyright;
 - 4.2.3 Send or knowingly receive data in such a way or amount so as to adversely affect the infrastructure (or any part thereof) which underpins the Apex Services;
 - 4.2.4 Carry out any fraudulent, criminal or otherwise illegal activity;
 - 4.2.5 Obtain access to restricted areas of the infrastructure, data, systems or services;
 - 4.2.6 In any manner which in the Company's reasonable opinion brings the Company's name into disrepute;
 - 4.2.7 Knowingly make available or upload file that contain viruses, malware or otherwise corrupt data;
 - 4.2.8 Falsify true ownership of software or data contained in a file that the Client or End User makes available via the Apex Services;
 - 4.2.9 Falsify user information or forge addresses;
 - 4.2.10 Act in any way which threatens the security or integrity Platform, including the download, intentionally or negligently, of viruses, ransom-ware, Trojan horses or other malware.

- 4.3 The Client agrees to immediately disconnect (and subsequently secure prior to reconnection) machines generating data and/or traffic which contravenes this Agreement upon becoming aware of the same and/or once notified of such activity by the Company.
- 4.4 Subject to the provisions of sub-clause 10.13 of the General Terms and Conditions, the Client shall indemnify the Company against any third party claims arising from the Client's breach of its obligations under this clause 4.

5. THE CLIENT'S OBLIGATIONS

During the term of this Agreement, the Client shall:

- 5.1 Pay all additional charges levied by the Company, including those arising from usage-based components of the Services.
- 5.2 Ensure that user-names, passwords and personal identification numbers are kept secure.
- 5.3 Ensure that its End Users use the Apex Services in compliance with the terms of this Agreement.
- 5.4 Unless otherwise agreed in writing, not allow any third party that is under the control of the Client to access the Apex Services.
- 5.5 Unless acting in the capacity of an approved Reseller, not resell, lease or rent the Apex Services to any third party.
- 5.6 Accept that it is the Client's sole responsibility to take all reasonable steps to prevent the introduction of viruses into the Apex Services via the Client's Equipment or software.
- 5.7 Accept that whilst the Company shall regularly backup the Platform, it is the Client's sole responsibility to regularly back up Customer Data that is held within the Apex Services.

6. THE COMPANY'S OBLIGATIONS

During the term of this Agreement, and subject to the performance by the Client of its obligations hereunder, the Company shall:

- 6.1 Make available the Apex Services on the terms of this Agreement.
- 6.2 Grant the Client a subscription to use the Apex Services on the terms of this Agreement.
- 6.3 Allow the Client to make unrestricted local copies of Customer Data that is contained within the Apex Services.
- 6.4 Configure the Apex Services according to the Order and Service Schedule.
- 6.5 Make available a help desk that shall provide support and guidance in the use of the Apex Services and manage the resolution of all Apex Services-related Issues raised by the Client.
- 6.6 Respond to Issue reports made by the Client and make reasonable endeavours to repair any Issue that is within the Apex Services or directly caused by the Company, its employees, agents, subcontractors or suppliers.
- 6.7 Respond to Change Requests raised by the Client, in the timescale set out in the Service Schedule, following the procedure set out in clause 12 hereof.
- 6.8 Make reasonable endeavours to provide the Apex Services by the RFS Date, but shall have no liability in the event of failure to do so.
- 6.9 Make reasonable endeavours to provide reasonable notice of any bona fide restriction which, for operational reasons the Company may place on the Apex Services.

7. Clause Intentionally Unused

8. GENERAL

- 8.1 The Company may perform any Planned Maintenance that may limit the availability of the Apex Services. Planned Maintenance will be scheduled to minimise impact of any such maintenance on the Client. The Client will be notified at least 12 hours prior to such Planned Maintenance taking place.
- 8.2 The Company may be unable to provide prior notice of Emergency Maintenance, but will endeavour to minimise the impact of any such maintenance on the Client.

- 8.3 In the event that the Company carries out work in response to an Issue reported by the Client and the Company subsequently determines that such Issue either was not present or was caused by an act or omission of the Client, the Company shall be entitled to charge the Client at its prevailing rates.
- 8.4 The Company shall not be responsible for the programming, configuration or management of any equipment that has been not been provided by the Company.
- 8.5 In the event that the Company receives notification of a copyright infringement report, a request to provide a copyright infringement list, an order to impose a technical restriction or any other notice, request or order, the Client will do everything reasonably required by the Company to ensure that the Company will be in compliance with their respective obligations in respect of the provision of the Services.

9. TERMINATION

- 9.1 In addition to the provisions of Clause 11 of the General Terms and Conditions, this Agreement may also be terminated:
 - 9.1.1 By either party by giving the other notice of not less than the Minimum Notice Period, in writing to terminate at the end of the Minimum Term or Additional Term thereafter;
 - 9.1.2 By the Client by giving thirty days' notice in writing in the event that the Company makes changes to the terms of this Agreement which are materially disadvantageous to the Client (for the avoidance of doubt, not including changes to charges) PROVIDED THAT such notice is given within thirty days of the effective date of the change(s).
 - 9.1.3 Forthwith by either party during the Run-Up Period in the event that the Company discovers technical issues which prevent it from being able to provide the Services or part thereof.

10. CHARGES AND PAYMENT

- 10.1 In general, invoices for setup / configuration shall be raised by the Company immediately following the RFS Date, invoices for fixed periodic charges shall be raised in advance of the relevant period and invoices for usage-based charges during the relevant period shall be raised in arrears. The invoicing period is set out in the Order.
- 10.2 Invoices arising from the implementation of Change Requests shall be raised immediately following the implementation of the Change Request.
- 10.3 The Company shall commence charging for the Services from the RFS Date, regardless of the date on which the Client commences use of the Apex Services. In the event that the RFS Date does not correspond with the Company's invoicing period as set out in the Order, the Company shall charge the Client at a pro-rata rate for the first invoicing period.
- 10.4 Except in the case of demonstrable error, all charges will be calculated in accordance with data collected by or on behalf of the Company.
- 10.5 The Client may add subscriptions for additional Modules to the Apex Services at any time during the term of this Agreement, by raising a supplemental Order:
 - 10.5.1 The additional subscription will be co-terminus with this Agreement;
 - 10.5.2 The additional charges, including monthly recurring charges and setup charges, will be set out on the supplemental Order.
- 10.6 The Client acknowledges that the charges for the Minimum Term are calculated by the Company in consideration inter alia of the setup costs to be incurred by the Company and the length of the Minimum Term offered.
- 10.7 The Client agrees that the Client shall be liable for termination charges in the event that this Agreement is terminated by:
 - 10.7.1 The Client terminating this Agreement for convenience prior to the end of the Minimum Term or Additional Term, whereupon the Client shall be liable for the fixed periodic charges payable for the remainder of the Minimum Term or Additional Term as appropriate;
 - 10.7.2 The Client terminating this Agreement for convenience during the Run-Up Period, whereupon the Client shall be liable for all set-up costs and cancellation costs incurred by the Company up to the date that the Company received notice of the Client's intention to terminate;

- 10.7.3 The Company terminating this Agreement prior to the end of the Minimum Term or Additional by reason of the Client's un-remedied breach of the terms of this Agreement, whereupon the Client shall be liable for the fixed periodic charges payable for the remainder of the Minimum Term or additional Term as appropriate;
- 10.8 The Client shall not be liable for termination charges in the event that this Agreement is terminated by:
- 10.8.1 The Client at the end of the Minimum Term or end of any Additional Term PROVIDED THAT the Client properly serves written notice to terminate, in accordance with Clause 9 of this Supplement or sub-clauses 11.1 of the General Terms and Conditions where such termination is caused by the action or inaction of the Company;
- 10.8.2 The Client or the Company during the Run-Up Period by reason of the Company becoming aware that will be unable to provide the Services or part thereof;
- 10.8.3 The Company at any time in the event that it can no longer provide the Services or part thereof;
- 10.8.4 The Client by reason of the Company's un-remedied breach of the terms of this Agreement;
- 10.8.5 The Client in the event that the Company makes changes to the Services which materially adversely affect the Client;
- 10.8.6 The Client in the event that the Company makes changes the terms of this Agreement which are materially disadvantageous to the Client PROVIDED THAT the Client complies with the provisions of sub-clause 9.1.2 hereof.

11. LIMITATIONS AND EXCLUSIONS

- 11.1 In addition to the terms set out in clause 12 of the General Terms and Conditions, the Company shall also be entitled to suspend the provision of Services, in whole or part, without notice due to:
- 11.1.1 Emergency maintenance or other emergency operational reason;
- 11.1.2 The Company is required by Government, emergency services, regulatory body or other competent authority to suspend Services;
- 11.2 The Company shall also be entitled to suspend the Services for the purpose of carrying out planned maintenance or upgrades, subject to reasonable notice. The Company shall use reasonable endeavours to minimise the frequency and extent of such planned maintenance or upgrades.

12. CHANGE REQUESTS

- 12.1 The Client may request a change to the configuration or functionality of the Apex Services ('Change'), for example, to add a field to a report, at any time.
- 12.2 The Change Request must be submitted by the Client in writing.
- 12.3 The Company will respond to the Change Request with a proposition ('Proposition') within the timeframe set out in the Service Schedule and in its Proposition will identify:
- 12.3.1 Whether or not it is technically feasible to make the requested Change;
- 12.3.2 Whether or not in its reasonable opinion, the Company recommends making the Change, and if the Company does not recommend making the Change, its reasons for not doing so;
- 12.3.3 Any imitations or restrictions that may apply to the Change or be caused by implementation of the Change;
- 12.3.4 The estimated timescale for making the Change;
- 12.3.5 The cost of making the Change to be borne by the Client.
- 12.4 If the Company requires clarification of the Client's requirement, it shall request such prior to providing its Proposition.
- 12.5 The Company will not implement the Change until it receives the Client's written acceptance of the Proposition.
- 12.6 On receipt of acceptance of the Proposition, the Company shall provide a target delivery date for the implementation of the Change.

- 12.7 The Company will use reasonable endeavours to deliver the Change by the target date; however its failure to do so shall not constitute a breach of this Agreement.
- 12.8 Delivery and acceptance:
- 12.8.1 The Company will notify the Client when the Change has been implemented;
- 12.8.2 The Client shall within five Working Days of notification, test the Change and either:
- a) Notify the Company of its acceptance of the Change; or
 - b) Notify the Company of the reason(s) for its non-acceptance of the Change.
- 12.8.3 In the event of the Client's non-acceptance of the Change, the Company shall discuss with the Client the reason(s) for the Client's non-acceptance of the Changes and shall either:
- a) Address any non-conformities with the Proposition in its implementation of the Change; or
 - c) Provide a revised Proposition which inter alia takes into account the Client's reason(s) for non-acceptance of the Change; and
 - d) On the Client's acceptance of the revised Proposition, shall re-implement the Change;
- 12.8.4 In the event that the Client does not formally accept the Change within five Working Days of the Company's notification of availability of the Change, the Change will be deemed to be accepted.
- 12.8.5 The Company will invoice the Client for the implementation of the Change, as set out in the Proposition, on acceptance of the Change or on failure of the Client to accept any revised Proposition contemplated in sub-clause 12.8.3(b).
- 12.9 The Company may decide, at its sole discretion not to charge the Client for the implementation of a particular Change; however such waiver shall be limited to the Change in subject and shall not serve to preclude the Company's entitlement to charge for the implementation of other Changes.

Service Schedule

The following Service Schedule sets out all of the Modules that may be provided by the Company under the terms of this Agreement. The actual Modules to be provided under the terms of this Agreement are listed on the Order.

1. Service Description Overview

1.1 The Company provides the following Apex Modules:

Apex DMS	Dealer Management System: Provides complete operational control covering all of the Client's operational needs, including accounts and valuations, workshop management and business reporting.
Apex CRM	Customer Relationship Management: Provides end to end lead management. From source through to sale, Apex tracks the entire customer journey while allowing the Client to manage every step of the purchase experience.
Apex KPI	Reporting: Provides reporting utilising internal and external data sources.
Apex CMS	Content Management System: Provides Full management and serving of the Client's web-content.
Apex Adfeeder	Provides feeds, aggregated from a number of sources, for pay per click and Google adwords.
Apex eCom	E-Commerce: Provides e-Commerce for the online purchase of vehicles.

1.2 The Company also provides a mobile app, Apex App, which facilitates the upload of photographs directly into the Apex Services.

2. Security and Service Management

- 2.1 The Apex Services platform comprises a number of physical servers, virtual servers, storage, interconnecting networks and Apex Services Software.
- 2.2 The Company is responsible for and shall maintain an appropriate level of physical CPUs, virtual servers, storage and network bandwidth on the Apex Services platform.
- 2.3 Connectivity to the Apex Services is achieved via leased lines or the Public Internet; such connectivity is not provided under the terms of this Agreement but may either be provided by the Company under the terms of other agreements or by a third party supplier.
- 2.4 The performance of the Apex Services Software is continuously monitored by the Company; Issues and potential Issues are fully managed and resolved by the Company.
- 2.5 Data Centre Security
 - The Apex Services platform resides in ISO27001 accredited, PCI-DSS v3.2 certified, UK and Ireland (EU) based Data Centres
 - The Apex Services platform maintains separation of Customer Data at all times through the use of separate databases and virtual networks to isolate different Clients
 - The Apex Services platform is protected by firewalls which are fully managed by the Company
- 2.6 Data Centre security and resilience features include:
 - 24 x 7 surveillance and access monitoring
 - 24 x 7 Cloud Platform monitoring
 - Dual redundant power supply distribution
 - Dual redundant UPS and diesel backup generator
 - Fully redundant air conditioning system
 - VESDA (very early smoke detection apparatus) early warning fire detection with full-flood fire suppression

3. Helpdesk

- 3.1 The Company's helpdesk provides support and assistance in the use of the Apex Services:
 - Provision of help and guidance in the use and configuration of the Apex Services

- Management of the prompt resolution of Issues with the Apex Services raised by the Client
 - Management of the prompt resolution of Issues arising within the Apex Services which are identified by the Company's monitoring system
 - Management of Change Requests
 - Remote access support if possible and appropriate
 - Escalation management if required in the event of protracted Issue resolution
- 3.2 The Company shall aim to make an initial response to the Client's request for assistance within four hours of the Client raising an Incident report.
- 3.3 The Client may make requests for assistance by Email to the Company's help desk – support@nexuspoint.co.uk;
- 3.4 The helpdesk is available Monday to Friday 9am to 5.30pm (UK Time Zone), excluding bank and public holidays.

4. Service Level Agreement

The Company aims to meet the following performance targets:

- 4.1 The Company's target availability for the Apex Services is 99%.
- 4.2 The Company shall aim to respond to Issues in the Apex Services in time-scales set out below:

Severity	Target Response Time (24/7 - 365 Days)
Critical	1 Working Hour
High	4 Working Hours
Normal	8 Working Hours
Low	3 Working Days

- 4.3 Issue severities are defined as follows:

- Critical Issues include total outage or processing outage for more than 20% of users, or mission-critical operations are severely impacted.
- High severity Issues includes outage for less than 20% of users.
- Normal severity Issues includes processing problems for a single User or a configuration problem.
- Low severity Issues includes requests regarding configuration, usability, documentation and Change Requests.

- 4.4 Failure to meet the following targets does not constitute a breach of this Agreement.

5. Complaint Handling

- 5.1 If the Client is dissatisfied with any Services-related matter, the Client should make a complaint using the following escalation path. If the complaint remains unresolved, the Client should escalate to the next level in the escalation path.

Escalation Level	Role	Contact Details
1	Helpdesk	support@nexuspoint.co.uk
2	Operations Director	Available upon request

3	Managing Director	Available upon request

5.2 Formal complaints can be made by e-mail and will be responded to within three Working Days.