Dynamic

Dynamic LMS platform

Subscription Agreement and Service Level Agreement

Contents

SUBSCRIPTION AGREEMENT 3
Definitions 3
Subscription fees 5
Subscription services provided by Dynamic 6
Responsibilities of the Client 6
Term and termination 7
License and intellectual property rights 8
Confidentiality 8
Data protection 8
Warranty 10
Liability 11
Force majeure 11
Law and jurisdiction 11
SERVICE LEVEL AGREEMENT 12
Introduction 12
1.1 Statement of intent 12
1.2 Objectives of the Service Level Agreement (SLA) 12
1.3 Period of the agreement 12
1.4 Review and termination of the agreement 12
1.5 Changes to the agreement 13
1.6 Designated administrators 13
1.7 Training and ongoing support 13
1.8 Support requests 14
1.9 Service level monitoring 14
1.10 Fair usage policy 14
Hosting by Dynamic 15
1.11 Hosting infrastructure 15
1.12 Uptime availability 15

1.13 Proactive monitoring 15
1.14 Backups 16
1.15 Availability measurement 16
1.16 Responses to unscheduled downtime 17
Hosting by the Client 17
1.17 Client hosting 17
Helpdesk service 17
1.18 Contacting Dynamic 17
1.19 Hours of operation 18
1.20 Support categorisation 18
1.21 Support process 19
1.22 Escalation process 19
1.23 Fault logging process 20
1.24 Upgrades to the LMS platform 22
SIGNATURIES 23
SCHEDULE 1 – LMS PRICING MATRIX 24
Pricing 24
Additional services 24

SUBSCRIPTION AGREEMENT

THIS SUBSCRIPTION AGREEMENT SETS OUT THE DYNAMIC LMS SERVICES AND CHARGES. BY PURCHASING AND USING THE DYNAMIC LMS, YOU AS THE CLIENT, AGREE TO BE BOUND BY THE TERMS AND CONDTIONS OF THIS AGREEMENT.

The Subscription Agreement and Service Level Agreement, including all schedules and appendices forms "the Agreement" that is between the purchaser of the Dynamic LMS, (that is you "the Client") and Dynamic Business Services Limited, (referred to as "Dynamic").

Dynamic

DYNAMIC BUSINESS SERVICES LIMITED ("Dynamic") Company No. 03865840, whose registered office is at The North Range, 4 Harewood Yard, Harewood, Leeds, LS17 9LF.

Dynamic provides on-line learning solutions to organisations to enable users to receive specific training from computer delivered devices online by way of Dynamics Learning Management System ("the Dynamic LMS").

The Client

The Client wishes to purchase from Dynamic their Dynamic LMS along with the standard configuration and setup of the Dynamic LMS based on the terms and conditions set out in this Agreement.

Definitions

Backups

The copying of LMS data, including user data, for the purpose of recovery of that data, should the Dynamic LMS or the server that it is operating on, become corrupted in such way that the data is corrupted and needs to be reset from a backup.

Commencement date

The date when Dynamic make the Dynamic LMS available to the Client. This is not necessarily the same date when the Client end users begin to use the Dynamic LMS, but it is the date when the Dynamic LMS is handed over to the Client for their use.

Error or bug

A reproducible defect in the Dynamic LMS application which causes the Dynamic LMS software to not operate in accordance with our stated functionality in our documentation or as we otherwise intended it to operate. Errors or bugs are not the same as support requests, however an error or bug would normally result in a support request for resolution. See the Service Level Agreement section for further information.

Designated LMS administrators

Dynamic require at least one nominee from the Client to be a designated administrator for the LMS platform. More than one designated administrator is permitted.

Force majeure

An event which a party could not have reasonably foreseen and taken reasonable measures to prevent, but does not include strikes, lock-outs or any other form of labour dispute or delay caused by contractual or labour relations between the parties and their employees or agents or an inability to perform due to lack of available funds.

Hosting

The Dynamic LMS is an on-line learning solution that requires hosting on a suitable web server by Dynamic or by the Client.

Intellectual property rights

All rights in any jurisdiction in patents, trademarks, trade secrets, copyrights, and other rights of a similar nature, including applications and/or registrations in connection with the foregoing and all other rights with respect thereto anywhere in the world, all rights of priority under international conventions to make such applications and the right to control their prosecution, and all rights under amendments, continuations, divisions and continuations-in-part of such applications; and all rights under corrections, reissues, patents of addition, extensions and renewals of any such grant, registration and/or right.

Service level monitoring

The periodic activities undertaken by Dynamic to check that the service level agreement is being maintained as expected by Dynamic.

Subscription fees

The fees paid by the Client in advance, on an annual basis for the provision of a support and/or hosting service.

Subscription term

The subscription term is in respect of both the hosting and support, unless the Client elects to host the Dynamic LMS on their own server, in which case the subscription term is in respect of the support only. The subscription term is for a 12-month period. At the end of the initial 12-month period, a new 12-month period will automatically commence on a rolling basis.

Support request

A request by the Client to fix a defect in the existing LMS platform, or a request for support or advice in understanding and using the functionality of the LMS platform. The limitations and extent of support is discussed in the section – SERVICE LEVEL AGREEMENT

Termination

The ability for the Client or Dynamic to end the Agreement.

Update

A minor change to the Dynamic LMS performed by Dynamic at a pre-arranged date and time with the Client. An update may require the Dynamic LMS to be put into maintenance mode or it may be able to be performed whilst the Dynamic LMS is live.

Upgrade

A major change to the Dynamic LMS performed by Dynamic at a pre-arranged date and time with the Client. An upgrade will require the Dynamic LMS to be put into maintenance mode. Backups are always taken before an upgrade is performed.

Uptime and availability

The availability of the Dynamic LMS for the Client to use. When Dynamic host the Dynamic LMS through the data centre provider on our own web servers, the uptime and availability is our responsibility. When the Client hosts the Dynamic LMS on their own web servers, uptime and availability is the responsibility of the Client.

Work Order

This is generally defined as any request to make modifications to the existing functionality or any request to add new functionality to the existing system. Work orders will normally be subject to additional fees. This is discussed in the section – SERVICE LEVEL AGREEMENT

Subscription fees

The subscription fees are in respect of both the support and the hosting, unless the Client elects to host the Dynamic LMS on their own server, in which case the subscription fee is in respect of the support only. The subscription fees are set out in Schedule 1 “LMS Pricing Matrix”.

Subscription fees are paid upon the commencement date and then paid annually thereafter on the anniversary of the commencement date. The Client will pay the subscription fee as set out in the pricing matrix.

If user numbers increase and/or storage space (if hosted by Dynamic) increase beyond the current limit on the LMS Pricing Matrix, this will trigger an increase in the subscription fee. This increase will, at Dynamic’s discretion, be payable within 30 days on a pro-rata basis for the remainder of that subscription period or commence at the renewal of the next subscription period.

Fees for additional services are not contained within schedule 1. Additional services could include, but are not limited to, items such as:

- Additional servers or additional server storage space for things such as a copy test LMS platform.
- Support requests that fall outside of support, e.g. managing or modifying the Client’s user data beyond that which is available through the application interface or managing the Client’s courses, providing consultancy services, updating, fixing or creating course content.
- Training provided to Client’s administrators after the initial training has been provided during deployment.

Fees for specific additional services will be provided upon request.

If payment of subscription fees is more than 30 days overdue, Dynamic reserve the right to terminate this Agreement upon notice in writing to the Client.

Dynamic reserves the right to increase the costs of the hosting and support as defined in the LMS Pricing Matrix. This increase will be limited to no greater than the Retail Price Index plus 5%. Any increase will be effective from the next renewal of the agreement.

Subscription services provided by Dynamic

The subscription services provided by Dynamic are detailed in the section – SERVICE LEVEL AGREEMENT

Responsibilities of the Client

You are responsible for the proper management and control of your Dynamic LMS and the users and course content that you add to the Dynamic LMS. In particular, but not limited to this, you are responsible for:

- Reading and understanding all training literature provided to you
- Proper use of the Dynamic LMS functionality.
- Following industry standard procedures for the creation of content including html code functions, image compression, video compression and other related technical standards for web delivery of content.
- The security of your user data
- Training new administrators and ensuring the knowledge and competence of all administrators managing the Dynamic LMS

Dynamic require at least one nominee from the Client to be a designated administrator for the LMS platform. More than one designated administrator is permitted. All queries and support requests made to Dynamic must come from these designated administrators. Dynamic will not provide information to other users from the Client's organisation, this is on order to ensure compliance with GDPR. Any other users from the Client's organisation who attempt to contact Dynamic will be directed to speak to one of the designated administrators.

In the event of a designated administrator leaving the Client's organisation, the Client is required to provide Dynamic with new details of a replacement as soon as possible to avoid any unnecessary complications.

As part of the initial deployment process, Dynamic will provide training (via a remote classroom facility, or at the Client's premises, the latter may incur additional costs. The training content will be based on the type of deployment undertaken.

Following upgrades, Dynamic will provide release notes and an updated training administration guide (accessed from the Dynamic LMS). Support is provided through the helpdesk service.

It is the responsibility of the Client to ensure that any new designated administrators are sufficiently knowledgeable and trained in the operation of the Dynamic LMS platform. Training of any new LMS administrators that the client employs in the future is the responsibility of the client. Dynamic can provide additional training for new LMS administrator upon request, and this will be charged at the prevailing day rate.

Term and termination

The subscription term begins on the commencement date and is then paid annually thereafter on the anniversary of the commencement date. This will continue on an automatic annual rolling basis until the Agreement is terminated.

The Client can terminate the Agreement by providing a minimum notice in writing of 90 days. No refund is provided for "unused" portions of the hosting and supporting provision for the remainder of that 12-month period.

Dynamic can terminate the Agreement by providing a minimum notice in writing of 180 days or to the end of the current subscription term if that is longer than 180 days.

If the Client fails to renew this Agreement, or the payment of subscription fees is more than 30 days overdue, Dynamic can terminate this Agreement by providing notice in writing of 30 days. This 30-day grace period is to allow client administrators time to download their data from the Dynamic server via a secure https connection and does not guarantee that end users will be able to continue to use the LMS platform. If Dynamic elects to terminate this Agreement due to non-payment of subscription fees, this will not affect any rights the Client may have under the GNU General Public License for use of open-source software licenses, but it will terminate the support and hosting provided by Dynamic.

If the Client terminates or elects not to renew the Agreement, but later elects to reinstate the support and/or hosting, this will be agreed by Dynamic on the following conditions:

- The subscription fee is paid for all periods from when the last payment was effective to and the current subscription period is paid.
- The Dynamic LMS and data is still available to be re-instated.

Otherwise, the Agreement will remain terminated and a new Agreement will need to be arranged with Dynamic and additional fees may be payable for the time taken to create and deploy a new Dynamic LMS.

License and intellectual property rights

Open source software license

The Dynamic LMS is a derivative product of the open source Moodle LMS product. As such, the Dynamic LMS software is provided to the Client under the terms of the GNU General Public License and the terms of the applicable license govern the use of such materials. Accordingly, any commitments, limitations, or restrictions with respect to the use and exploitation of such materials provided in this Agreement are solely with respect to and conditions of the Client's right to receive support and other related services under this Agreement, and nothing in this Agreement shall be deemed or interpreted to conflict with, negate, contradict, condition, limit, restrict, or otherwise diminish any rights the Client may have under the GNU General Public License.

Intellectual property rights

No right or licence, express or implied, is granted to the Client under this Agreement for the use of any Dynamic trademark, logo, service mark or other Intellectual Property Rights whether or not derived from the Dynamic LMS product including, without limitation, the distribution of any Dynamic LMS plugins or custom functions, core components or other Dynamic Intellectual Property Rights.

All Intellectual Property Rights that are owned by, or is proprietary to the Client or to Dynamic, at the Commencement Date of this Agreement, shall at all times remain owned by that party exclusively.

Confidentiality

Each party agrees that it will at all times (both during the term of this Agreement and after its termination) keep confidential, and will not use (other than strictly for the purposes of this agreement) and will not, without the prior written consent of the other party, disclose to any third party any confidential information relating to the business of the other party, unless the information:

- Was public knowledge or already known to the disclosing party at the time of disclosure; or
- Subsequently becomes public knowledge other than by breach of this Agreement; or
- Subsequently comes lawfully into the possession of the disclosing party from a third party.

Data protection

In this Agreement with Dynamic for the provision of the Dynamic LMS, you are the data controller. This is because the data held within the LMS platform is your user's information. Dynamic is the

data processor – this is because we store your data and provide functions for the processing of this data.

Data Controller (you the Client)

Your responsibilities are:

- To obtain legal and lawful reasons to store data on a subject.
- To ensure that all data held is necessary and up-to-date.
- To detail a data retention policy to the data subject.
- To inform the data subject why, what and how their data is being used.
- To assist with any subject access requests made by a data subject.

Data Processor (Dynamic)

Dynamic's responsibilities are:

- To only ever act on written or verified telephone instructions from the data controller – this will include assisting with issues via the helpdesk.
- To not use a subcontractor to process data without written authorisation from the controller.
- To co-operate with supervisory authorities as required.
- To ensure the security of the data – this will be achieved by annual penetration tests, which will be run on Dynamic's default deployment of the LMS. Any advisories will be applied to all of Dynamic's LMS deployments.
- To keep records of its processing activities – these will be held through the helpdesk system for monitoring Client contacts. They will also be held via audit logs within the LMS, for administrator-level access of user data (Dynamic and Client).
- To notify the controller of any breaches of personal data.
- To employ a data protection officer (Callum Statham).
- To assist the data controller with any subject access requests.
- At the end of the Agreement, to return all personal data to the controller as requested. This will usually be supplied in a .csv format.

Hosting and storage of personal Client data by Dynamic

Dynamic has access to personally identifiable Client information. It is essential that this information is stored and processed in line with the Data Protection Act and GDPR. The key points relating to Dynamic's activities are shown below:

- Client data will only be hosted within the UK using Dynamic's hosting partner, the data centre providerHosting. Dynamic utilises a private cloud infrastructure with dedicated storage and backup.
- The data centre providerHosting is certified to the following standards:
    - ISO 27001:2013, ISO 9001:2008
    - PCI DSS,
    - ISO 14001:2015 Environment Management System Carbon Footprint
- We back up the data from the LMS platform on an hourly and daily basis. Hourly backups are taken on 24-hour cycles, and daily backups are taken on 30-day cycles and securely transferred to the off-site backup

- Dynamic will never transfer your data outside of the UK.
- Clients can request for their data to be held in a different country if required. For example:
    - A Client and its employees are all based in the USA - they wish to host the LMS on a server within the USA, rather than in the UK.
- Dynamic will never share your data with any other third parties.
- Personal Client data is only stored within Dynamic's LMS platform.
- All web servers must adhere to Dynamic's IT security standards and contain appropriate firewalls and anti-virus software, as well as receive operating system updates.
- Very small LMS platforms may on occasion be deployed on shared web servers – in this situation, each instance of the LMS application will utilise a separate database, in order to separate each Client's personal data held on that shared web server.
- Access is restricted via username and password and limited to connections only by Dynamic and the data controller.
- Data is never saved onto mobile storage devices - this also includes CDs and DVDs.
- The personal Client data will not be transferred over the web without suitable encryption.
- The personal Client data should not be held if it is not required or is excessive for our uses. For example:
    - A Client may supply date of birth or National Insurance numbers for employees as part of the staff user profile for populating the LMS. This data is not normally required for training administration and elearning purposes, and therefore Dynamic will inform the Client that this personal data is excessive and should be removed from the data source and must not be supplied in the future.

Further policies covering how Dynamic operate with regards to GDPR and information security can be provided upon request.

Warranty

Dynamic will provide the services under this Agreement with the level of due care and diligence that might be expected from a provider operating within the elearning industry and within the constraints of providing software and support services in respect of an open source software product. As the Dynamic LMS is based upon the Moodle open source software, no representations or warranties are made by Dynamic in respect of the Dynamic LMS product.

To the maximum extent permitted by applicable law, all other warranties and representations not expressly stated in this agreement are excluded, including, but not limited to any implied warranty of merchantability, non-infringement and fitness for a particular purpose.

We do not guarantee that the use of the Dynamic LMS product and the services provided under this agreement will not be interrupted or be error free.

Liability

The Client will indemnify, defend and hold Dynamic and its officers, directors, agents and employees harmless from and against all claims, suits, demands, actions, proceedings, judgments, penalties, damages, losses, liabilities, costs and expenses (including, without limitation, reasonable legal and expert witness fees) resulting from any and all third-party claims against us arising from or relating to:

- any breach of a representation, warranty, acts or omission made by you; and
- any action or inaction by you or any of your contractors, agents or employees which caused or is alleged to have caused damage to the person or property of a third-party, including without limitation, third-party computer equipment.

Each of the parties must take reasonable steps to mitigate any claim for loss or damage it may take against the other under or arising out of this Agreement.

In no event shall either party be liable to the other for any indirect, consequential or special losses or damages (exemplary or otherwise) arising out of or in connection with the performance or non-performance of its obligations under this Agreement.

Except in respect of any obligation of confidentiality, in no event will the measure of damages against any party for any breach of this Agreement, negligence or other action or contravention of any statute or law include, or be derived from:

- Any breach of this Agreement to the extent that the breach is attributable to the prior default, negligence, misconduct or breach of the other party, its employees, or agents;
- Any amounts for any indirect, consequential or punitive damages of any parties, including third parties; or
- A Force Majeure Event.

Force majeure

Neither party shall have any liability under or be deemed to be in breach of this Agreement for any delays or failures in performance of this Agreement which result from circumstances beyond the reasonable control of that party. If such circumstances continue for a continuous period of more than 90 days, either party may terminate this Agreement by written notice to the other party.

Law and jurisdiction

The parties hereby agree that this Agreement shall be construed in accordance with English Law. Any dispute arising out of or in connection with this Agreement shall be settled under the judicial system of England and Wales.

This Agreement (which incorporates the Schedules annexed hereto) has been entered into by the parties on the date first stated.

SERVICE LEVEL AGREEMENT

Introduction

1.1 Statement of intent

Your organisation is referred to as 'the client' throughout this document.

The aim of this agreement is to provide a basis for close co-operation between Dynamic Business Services Ltd (Dynamic) and the client, with regards to the support, maintenance (and where applicable, the hosting) of the Dynamic LMS platform. The document also illustrates the high-level process for these services.

This agreement is contingent upon each party knowing and fulfilling their responsibilities and generating an environment conducive to the achievement and maintenance of targeted service levels.

1.2 Objectives of the Service Level Agreement (SLA)

- To create an environment to ensure the effective provision of a learning platform.
- To document the responsibilities of all parties taking part in the agreement.
- To define the commencement of the agreement, its initial term and the provision for reviews.
- To define in detail, the service to be delivered by Dynamic and the level of service which can be expected by the client, thereby reducing the risk of misunderstandings.
- To institute a formal system of objective service level monitoring ensuring that reviews of the agreement are based on factual data.
- To provide a common understanding of the service requirements or capabilities and of the principles involved in the measurement of service levels.
- To provide for all parties to the SLA, a single, easily referenced document which caters for all the objectives as listed above.

1.3 Period of the agreement

This support agreement will commence on the date agreed between the client and Dynamic and will continue for a 12-month period. The annual cost for the support is based upon the maximum number of users (and for hosting purposes) and the available storage space as outlined in the document **LMS Pricing Matrix**. If user numbers increase and/or storage space (if hosted by Dynamic) increase beyond the next increment on the LMS Pricing Matrix, this will require an increase in the cost.

At the end of the initial 12-month period, a new 12-month period will automatically commence on a rolling basis.

1.4 Review and termination of the agreement

This agreement may be reviewed annually by Dynamic. The review will cover the services provided and the service levels.

The client can terminate the agreement by providing a minimum notice of 90 days, in writing. No refund is provided for 'unused' portions of the hosting and supporting provision for the remainder of that 12-month period.

Dynamic can terminate the Agreement by providing a minimum notice in writing of 180 days or to the end of the current subscription term if that is longer. If Dynamic elects to terminates this Agreement due to non-payment of subscription fees, this will not affect any rights the Client may have under the GNU General Public License for use of open-source software licenses, but it will terminate the support provided by Dynamic. Furthermore, if Dynamic are also hosting the Dynamic LMS, this will terminate the hosting facilities and the Client will have an additional grace period of 30 days in which to download the data from the Dynamic server via a secure https connection.

1.5 Changes to the agreement

Dynamic reserves the right to change or modify the terms and conditions applicable within the SLA document. Such changes to the SLA document shall be notified to the client in advance and will be effective from the next renewal of the agreement.

Dynamic reserves the right to increase the costs of hosting and support as defined in the LMS Pricing Matrix. This increase will be limited to no greater than the Retail Price Index plus 5%. Any increase will be notified in advance and will be effective from the next renewal of the agreement.

1.6 Designated administrators

Dynamic requires at least one nominee from the client to be a designated administrator for the LMS platform. More than one designated administrator is permitted. All queries and support requests made to Dynamic must come from these designated administrators. Dynamic will not provide information to other users from the client's organisation, this is on order to ensure compliance with GDPR. Any other users from the client's organisation who attempt to contact Dynamic will be directed to speak to one of the designated administrators.

In the event of a designated administrator leaving the client's organisation, the client is required to provide Dynamic with new details of a replacement as soon as possible to avoid any unnecessary complications.

1.7 Training and ongoing support

As part of the initial deployment process, Dynamic will provide training (via a remote classroom facility, or at the Client's premises, the latter may incur additional costs. The training content will be based on the type of deployment undertaken.

Following upgrades, Dynamic will provide release notes and an updated training administration guide (accessed from the Dynamic LMS). Support is provided through the helpdesk service.

It is the responsibility of the Client to ensure that any new designated administrators are sufficiently knowledgeable and trained in the operation of the Dynamic LMS platform.

Following the initial deployment and administrator training. Dynamic is not responsible for training new administrators. If further administrator training is requested, this will be charged at Dynamic's standard daily rate.

1.8 Support requests

For the purposes of the SLA, a **support request** is generally defined as a request for support to fix a defect in the existing LMS platform, or a request for support in using the functionality of the LMS platform.

For the purposes of this SLA, a **work order** is generally defined as any request to make modifications to the existing functionality or any request to add new functionality to the existing system. Such requests are not covered under the SLA and must form part of a development project. These will be scoped separately, as required.

Dynamic reserves the right to refuse to undertake work orders if the proposed new functionality would conflict with the existing functionality or would be unable to be properly supported by Dynamic. This includes the addition of community developed plugins.

Upgrades are normally provided as part of the support service and are discussed in Section 4.

1.9 Service level monitoring

In the event of a discrepancy between actual and targeted service levels, both the client and Dynamic are expected to identify and resolve the reason(s) for any discrepancies in close co-operation.

Service level monitoring is performed by Dynamic. Upon request from the client, service level monitoring can be provided to the client on a monthly report. This report can include the following information:

- Overview of server hardware performance including RAM and CPU utilisation.
- Uptime monitoring results including any specific outages.
- Average page load times and slow query logs (this will be available in the future).

Additional service level monitoring covering the response times of support requests can be produced on a quarterly basis. At any time the client can access the history of their support tickets via the Dynamic Helpdesk System.

Please see Sections 2, 3 and 4 for more information on service levels and support processes.

1.10 Fair usage policy

Users who exhibit patterns of system usage that exceed certain thresholds for extended periods of time may impact the performance and/or availability of their own and potentially other materials hosted by Dynamic.

Dynamic reserves the right to restrict service usage based upon unfair usage.

Examples of unfair usage include:

- A breach of registered user numbers in comparison to the LMS pricing matrix.
- A breach of storage usage in comparison to the LMS pricing matrix.
- Individual files exceeding 500MB in size.
- Uncompressed image and video files within course content.
- Unusually large volumes of site traffic, e.g. multiple, large video files, accessed site wide by all users.

- Unusually large user data report results (e.g. exceeding 20,000 rows) run on a frequent basis by multiple users. These types of report requirements should be identified with Dynamic and produced as overnight scheduled batch run reports.

Dynamic will conduct regular account usage reviews alongside service level monitoring to ensure fair usage for all of Dynamic's hosted clients.

Hosting by Dynamic

1.11 Hosting infrastructure

Where Dynamic hosts the LMS platform, Dynamic supports the LMS platform and also supports and manages the server hardware, server software and backups. Dynamic uses a third party data centre provider. The data centre provider is UK based with UK support staff. The data centre provider meets all requirements for Tier 3 data centre standards. Details of the data centre, it's configuration and security certifications can be provided upon request.

At no time does the client need to liaise directly with the data centre provider. All support for the LMS platform and the hosting of the platform on the private cloud hosting infrastructure is provided by Dynamic through our helpdesk service.

If the client elects to host the LMS platform internally, then Dynamic will only support the LMS platform application. The responsibility for managing and monitoring the server hardware, server software, uptime and backups, all rest with the client.

1.12 Uptime availability

When Dynamic hosts the LMS platform through the data centre provider, we aim to provide a 99.9% uptime and guarantee a 99.5% uptime on a 24x7 basis.

The standard server infrastructure has considerable resilience within our SAN storage with N+1 redundancy, this means that our private cloud infrastructure can cope with a high number of simultaneous hardware failures and still remain up.

If clients require a higher uptime availability guarantee, e.g. 100%, then a high availability mirrored server infrastructure would need to be installed. Specification and costs will be provided on a case-by-case basis.

1.13 Proactive monitoring

Both the data centre provider and Dynamic proactively monitor your server infrastructure; the client does not need to monitor the server themselves. If we find that a server or servers are sustaining a heavy load, then additional resources will be applied either by Dynamic or the data centre provider. If a server goes off-line for any reason, then again, either Dynamic or the data centre provider server engineers will take steps to bring the server back online, without the need for the client to alert Dynamic. At no time does the client need to liaise directly with the data centre provider.

1.14 Backups

We backup the data from the LMS platform on an hourly and daily basis. Hourly backups are taken on 24-hour cycles and daily backups taken on 14-day cycles. This means that in a worst-case scenario, if you accidently deleted or corrupted data in the system and we could not recover it through the LMS platform functions, then we would roll-back your LMS to the last stable hourly or daily backup.

The daily backups are securely transferred off site from the Reading data centre to the Manchester data centre.

1.15 Availability measurement

Scheduled downtime

At certain times, Dynamic will need to carry out general maintenance of the hosting infrastructure, server software or other aspects of the solution that may require interruption of the availability of the Dynamic LMS platform. In these cases, Dynamic will aim to provide the client with sufficient notice, e.g. several days' notice of this planned maintenance. Where possible, a convenient date and time for the maintenance will be agreed in advance. Also, where possible, Dynamic will aim to conduct the general maintenance outside normal business usage hours of the LMS platform.

At certain times, Dynamic may need to carry out what are deemed to be critical updates or maintenance of the hosting infrastructure, server software or other aspects of the solution that may require interruption of the availability of the Dynamic LMS platform. In cases of critical updates or maintenance, then these will normally need to be performed within 24 hours and Dynamic will aim to provide at least a 2-hour notice period. Again, where possible, Dynamic will aim to conduct the critical updates or maintenance outside normal business usage hours of the LMS platform.

Unscheduled downtime

Outages or unplanned downtime is the total number of minutes during which the service is unavailable other than as a result of scheduled general maintenance or scheduled critical maintenance. This is in relation to each calendar month.

Please note that outages which are not related to the hosting infrastructure, e.g. national or regional outages related to an ISP coverage, are not within the control of Dynamic or The data centre provider and are not included within the calculations for unscheduled downtime.

Availability measurement calculation

The availability measurement is calculated for each month, as follows:

$$\frac{\text{(Total Service Minutes - Unscheduled Downtime)}}{\text{(Total Service Minutes)}} \times 100$$

1.16 Responses to unscheduled downtime

Outages or unplanned downtime are treated as high priority (see Section 4.3 on fault categorisation). The priority is to resume the service as soon as possible. An initial draft communication will aim to be issued within 24 hours and a full response within 48 hours.

For regular updates on performance, please refer to Section 1.8 – Service level monitoring.

Hosting by the Client

1.17 Client hosting

In order that the LMS platform can be best supported, we strongly advise that clients host with Dynamic. If a client elects to host the LMS platform on their own servers, then the support provided by Dynamic is limited to the LMS application only, no server hardware or software support is provided. LMS application support is also contingent on using appropriate server hardware and server-side software. Please refer to the document **Dynamic LMS – Hosting by the client** for further detailed information.

Dynamic cannot be held responsible for If the LMS platform suffers degradation of performance due to incorrect server hosting. Dynamic will provide advice on a best endeavour basis, but are not responsible for the server configuration. If the de degradation of performance cannot be rectified, the Dynamic will advise that the LMS platform is hosted by Dynamic.

Helpdesk service

1.18 Contacting Dynamic

There are three channels that designated administrators can use to contact Dynamic for LMS support. The best channel to use is the web form, as this automatically logs and tracks the query from the moment it is submitted.

Web form: http://helpdesk.dynamicbusiness.co.uk/
This is the best method as you can provide information in a structured way. A ticket will be automatically raised, and you will be emailed the ticket number so you can monitor progress.

Helpdesk email: helpdesk@dynamicbusiness.co.uk
Using this email address will automatically raise a ticket and you will be emailed the ticket number so you can monitor progress. **NB: If including screenshot images, please do not embed the image in the body of the email. Instead, include it as an attachment – either an image or in a Word document**.

Telephone: 0113 323 0766.
This will direct you to our dedicated LMS Helpdesk Team.

If the query is simple and can be answered immediately, then we will do so. If it requires further investigation, then we will raise a ticket ourselves and allocate the query to a specific support team member. Again, you will be emailed the ticket number so you can monitor progress.

Another benefit of using the web-based system is that it allows you to look through the history of all your tickets, including closed tickets for reference purposes.

1.19 Hours of operation

The Dynamic helpdesk operates on UK business hours and will operate daily from 9.00am to 5.00pm Monday to Thursday and 9.00am to 4.30pm on Friday. The helpdesk will not be in operation outside these days and times.

Outside of the Dynamic helpdesk operational hours, the server is still proactively monitored 24x7 by the data centre provider (see Section 2.3 – Proactive monitoring). If a fault occurs on the server or server-side software resulting in loss of the LMS platform service and this is outside the helpdesk operational hours, then the data centre provider will take steps to bring the server back online independent of Dynamic, although they will alert Dynamic personnel. At no time does the client need to liaise directly with the data centre provider.

1.20 Support categorisation

Table 1 shows the priority assigned to faults/support according to the perceived importance of the reported situation and the target time for resolution. Please note that the target time for resolution is a target, not a guarantee. There are many factors that can contribute to the complexity of specific issues.

Table 1 – Response Priority

Priority	Response times	Target resolution time from initial response time
Low	2 working days (default)	6 hours
Medium	4 hours	4 hours
High*	2 hours	2 hours

The response and target resolution times are based on the Dynamic helpdesk operational hours.

*Failure of the LMS platform server or server-side software, outside of the Dynamic helpdesk operational hours, will be attended to by the data centre provider, who will take steps to bring the server back online independent of Dynamic.

Low Priority

General LMS operational advice; course function queries and standard change requests to LMS functions via the LMS administrator interface.

Medium Priority

Course functionality errors, for example there may be a tracking problem with a specific course. LMS-specific functionality errors, for example a report or administration function appears to be inaccurate or users have not been added.

High Priority

The LMS is not available or not responsive over the internet, returning either an error, a blank page or otherwise slow to respond to the point of being unusable.

Please note that the helpdesk web form allows clients to choose the categorisation of the type of support request. However, Dynamic reserves the right to change this categorisation if it is deemed inappropriate – for example, a request for general advice on how to use a function within the LMS has been categorised as a High Priority.

1.21 Support process

Support is provided to the designated administrators (as defined in Section 1.6). Dynamic will not provide information to other users from the client's organisation – this is on order to ensure compliance with GDPR.

The process for support is shown below. In most cases, first level support will resolve the enquiry without escalation, and support regarding help and advice in system functionality will be provided at that first contact. In cases where a specific technical resolution is required, this may be escalated to second level support for more detailed investigation. All support members work together as one team at Dynamic. Therefore, escalation from Level 1 support to Level 2 support will not incur delays or further disruption for the client.

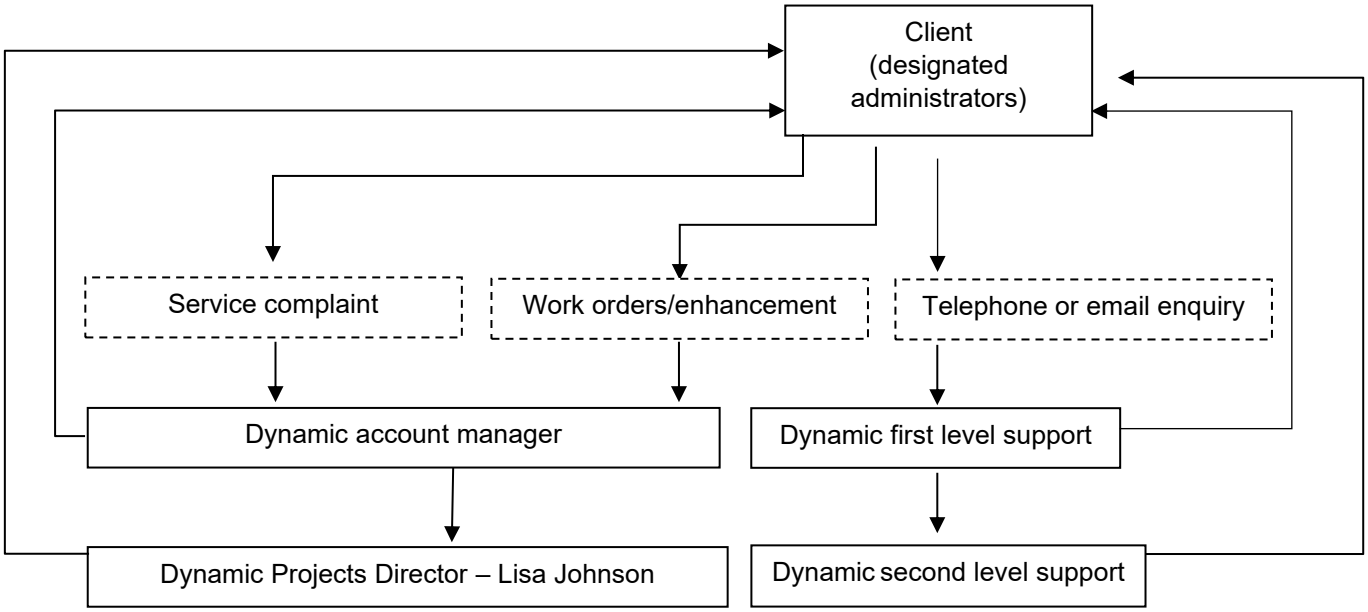
If a client requests work to be done on the LMS platform that falls outside of a support request, e.g. it is a work order for enhancement to the LMS platform, then this will normally be passed on to the client's account manager for consideration. See Section 1.8 regarding the definition of support requests.

1.22 Escalation process

The normal support process using first level and second level support will be sufficient for all normal support requests. Work orders or enhancement requests should be directed to your account manager. If these requests are identified by helpdesk support, then they will be transferred to your account manager for consideration.

In the unlikely event that a client is unhappy with the support service they are receiving from Dynamic or have an unresolved issue, then this should be directed to your account manager. If you are unhappy with the resolution from your account manager, this will then be escalated to the Projects Director.

The support process and escalation process are shown below:



1.23 Fault logging process

Regardless of the method of contacting Dynamic, for each fault we require:

Inability to access the LMS (general)	• The web address of the site or page accessing. • The name of the course or module (if you cannot access the course or module). • Any particular error messages that appear. • Screenshot as an attachment, where possible.
Inability to access the LMS (specific individuals)	• Username. • Full name of the user. • The web address of the site or page accessing. • The name of the course or module (if you cannot access the course or module). • Any particular error messages that appear. • Screenshot as an attachment, where possible.

Tracking or reporting error (general)	• Name of the course, module or quiz that is not tracking or reporting. • What criteria is chosen if a particular report is not working. • What is not tracking – status or score. • Any particular error messages that appear. • Screenshot as an attachment, where possible.
Tracking or reporting error (specific individuals)	• Name of the course, module or quiz that is not tracking or reporting. • Username of the user not appearing or not tracking correctly. • Full name of the user. • What criteria was chosen that doesn't show the particular individual. • What is not tracking – status or score. • Any particular error messages that appear. • Screenshot as an attachment, where possible.
Content-specific issue, e.g. an issue with an element not tracking correctly or an issue with the upload of a course	• Name of the course, module or quiz that is not tracking or reporting. • If it is a particular page of the module and which page number. • What specifically is not working? For example, cannot move forward on a page or broken links. • Any particular error messages that appear. • Screenshot as an attachment, where possible.
LMS functionality issues, e.g. uploading or the removal of users and courses	• What is to be uploaded? • Where is it uploading to? • Any relevant details. • Any particular error messages that appear. • Screenshot as an attachment, where possible.

1.24 Upgrades to the LMS platform

One enhancement upgrade per year is provided as standard. Other upgrades may be performed if application security patches are required. The standard upgrade will be to the latest stable version of the LMS platform being deployed. Dynamic will contact you to arrange a suitable date for the annual upgrade and will aim to provide at least 3 weeks notice. Dynamic may insist that essential security patches are applied with a shorter notice period than this, but will endeavour to minimise the impact of any downtime.

Upgrades usually consist of a combination of Dynamic plugin functions and/or Moodle HQ's own functions. These upgrades will be timetabled with the client in advance. Specific functionality deployed within the upgrades are at the exclusive discretion of Dynamic. Typically, Dynamic deploys a long-support schedule version of Moodle. This means that at certain times you may not be using the very latest version of Moodle, but you will always be using a fully supported and security patched version of Moodle. Requests from clients, to be upgraded to untested versions of Moodle, will be declined.

During the upgrade process the site will need to be placed into maintenance mode – this will prevent users from logging on to the site. Dynamic will aim to complete most upgrades within three hours, however, for larger sites, this may take longer – Dynamic will contact you to confirm the estimated downtime if this is the case.

Where the LMS application or any server-side software needs to be updated because it is nearing its End of Life (EOL), Dynamic will insist that these updates are done by a specific date to ensure that all software remains secure.

Only standard Dynamic LMS platforms and core function upgrades will be performed at no additional cost as part of the support and maintenance contract. Additional costs may be incurred in the following circumstances:

- Upgrades to LMS platforms that contain customised program code or third-party plugins.
- Upgrades, that at the request of the client, change the theme design of the LMS and/or dashboard, or change the function of the platform.
- If the client hosts the platform internally and additional time is required to perform the upgrade due to the way in which Dynamic are given access to the client hosted system which are outside the control of Dynamic.

SIGNATURIES

1. DYNAMIC BUSINESS SERVICES LIMITED of The North Range, 4 Harewood Yard, Harewood, Leeds, LS17 9LF ("the Supplier") and

2**. XXXXXXXXXXXXXXXXX** ("the Client")

SIGNED FOR AND ON BEHALF OF

DYNAMIC BUSINESS SERVICES LIMITED [ ]

DATED: [ ]

SIGNED FOR AND ON BEHALF OF

XXXXXXXXXXXXXXXXX ("the Client") [ ]

DATED: [ ]

SCHEDULE 1 – LMS PRICING MATRIX

The Dynamic LMS is based on the Moodle open source platform and is provided fully branded and configured with powerful group administration and group reporting functionality. We provide software as a service (SaaS) – a cloud based virtual server environment including a managed firewall, intelligent back-up and proactive uptime monitoring on fully maintained servers.

Pricing

- The pricing provided to you is based on the total number of individual users who have access to the LMS platform and the total storage space utilised. The pricing is subject to a potential annual price increase as defined in this document
- Design, deployment and configuration cost is included as an initial upfront cost for supplying the Dynamic LMS with all Dynamic plug-ins, branding, design and configuration.
- HTTPS security certification and SFTP secure transfer of data is included as standard.
- Annual maintenance and support includes releases of new features, security patches and fixes and support desk (telephone and e-mail) access for nominated client personnel – LMS administrators only.
- Training for a maximum of six employees (LMS administrators) is included at initial deployment. Once training is completed and the client is using the platform, support is provided by the Dynamic helpdesk. Training of any new LMS administrators that the client employs in the future is the responsibility of the client. Dynamic can provide additional training for new LMS administrator upon request, and this will be charged at the prevailing day rate.

Additional services

The following additional services can be provided and will be priced on a case-by-case basis:

- Set up of courses from a legacy training system.
- Import of historical user training records from a legacy training system.
- Automated import of user data from a client HR system and/or single sign-on user authentication via a directory service.
- Automated group and group manager creation based on HR system data and/or hierarchal organisation structure
- Automated export of user data for populating a client system.
- A multiple language LMS based on a user's regional profile setting.
- An e-commerce content managed web site integrated with the LMS platform allowing for a wide variety of methods for selling access to on-line courses.
- Any other integration with external systems.