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## *Service Level Agreement for Holistica Online Platform*

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### **Holistica Online Training Platform – Learning Management System (LMS) Service Level Agreement**

LAST UPDATED JUNE 2023

This Service Level Agreement (“**SLA**”) is entered into by respectively the entity (“**Supplier**”) and you (“**Customer**”) pursuant to the Software as a Service Terms and Conditions available at <http://www.holisticaonline.com/holistica-onlines-terms-and-conditions/> or other Software as a Service Terms and Conditions entered into by the parties (the “**Customer Agreement**”) and governs the Service Levels of the LMS Services during Customer’s Subscription. Capitalized terms not defined below have the meanings ascribed to them in the Customer Agreement. The version of this SLA that is current at the commencement or renewal of the term of your Subscription will apply.

### **Definitions**

“**Authorized Contact**” means the individual who is the super-admin of your Holistica LMS domain.

“**Availability Credit**” means the remedy Supplier will provide for a validated Claim.

The Availability Credit will be applied in the form of a credit or discount against a future invoice of Subscription Fees for the LMS Services.

**“Claim”** means a claim submitted by your Authorized Contact to Supplier pursuant to this SLA that a Service Level has not been met during a Contracted Month.

**“Contracted Month”** means each full month during the term of the Subscription measured from 12:00 a.m. Eastern US time on the first day of the month through 11:59 p.m. Eastern US time on the last day of the month.

**“Downtime”** means a period of time during which production system processing for the LMS Services has stopped and all of your users are unable to use all aspects of the LMS Services for which they have appropriate permissions. By way of clarification, there is no “Downtime” if any user can use any aspect of the LMS Services for which they have appropriate permissions. Downtime does not include the period of time when the LMS Services are not available as a result of:

- Planned System Downtime.
- Force Majeure.
- Problems with Customer or third party applications, integrations, equipment or Data.
- Customer or third party acts or omissions (including anyone gaining access to the LMS Services by means of your passwords or equipment).
- Customer’s failure to adhere to required system configurations and supported platforms for accessing the LMS Services.
- Supplier compliance with any designs, specifications, or instructions provided by Customer or a third party on Customer’s behalf.

- Failure of communication or telephone access service or other outside service, equipment, or software not the fault of Supplier.
- Any cause where such period of time lasts less than 5 minutes.

**“Eligible Customer”** means an entity with an active, paid Subscription for the LMS Services, which has entitlement for use of the LMS Services at the time of submitting a Claim, and which is not in default of any material obligations, including payment obligations, under its contract with Supplier for the LMS Services.

**“Event”** means a circumstance or set of circumstances taken together, resulting in a failure to meet a Service Level.

**“Force Majeure”** refers to events or conditions beyond the reasonable control of Supplier. Such events include but are not limited to “acts of God” such as fire, flood, earthquake, riot, volcano eruptions, epidemics and terrorism, war, labor action, governmental acts, orders or restrictions.

**“Planned System Downtime”** means a scheduled outage of the LMS Services for the purpose of Scheduled Maintenance or system updates, such as but not limited to, when a release, patch or hot fix is applied.

**“Scheduled Maintenance”** means maintenance that is announced at least one week in advance, and that does not exceed three hours in any calendar month.

**“Service Level”** means the standard set forth below by which Supplier measures the level of service it provides in this SLA.

## Availability Credits

In order to be eligible to submit a Claim you must be an Eligible Customer and have logged a support request for each Event with the customer support help desk for the applicable LMS Services. You must provide all necessary detailed information about the Event, including the time you were first impacted by the Event, and reasonably assist Supplier with the diagnosis and resolution of the Event to the extent required. Such requests must be logged within 24 hours of your first becoming aware that the Event has impacted your use of the LMS Services. Your Authorized Contact must submit your Claim for an Availability Credit no later than 5 business days after the end of the Contracted Month which is the subject of the Claim. Your Authorized Contact must provide to Supplier all reasonable details regarding the Claim, including but not limited to, detailed descriptions of all relevant Events and the Service Level claimed not to have been met. Notwithstanding anything to the contrary herein, Customer's failure to comply with the requirements of this paragraph will disqualify Customer from receiving an Availability Credit in connection with the applicable Event.

Supplier will measure internally total combined Downtime during each Contracted Month. Availability Credits will be based on the duration of the Downtime measured from the time you report that you were first impacted by the Downtime. For each valid Claim, Supplier will apply the highest applicable Availability Credit corresponding to the total combined availability during each Contracted Month, based on the table below. Supplier will not be liable for multiple Availability Credits for the same Event in the same Contracted Month.

Upon receiving your Claim, you will be notified within two weeks regarding the final decision on whether and how many Availability Credits are awarded.

The total Availability Credits awarded with respect to any Contracted Month shall not, under any circumstance, exceed 50 percent (50%) of the respective fee of the Contracted Month or one twelfth ( $1/12^{\text{th}}$ ) of the annual charge paid by you to Supplier for the LMS Services, as applicable.

Supplier will use its reasonable judgment to validate Claims based on information available in the records of Supplier, which will prevail in the event of a conflict with data in your records.

THE AVAILABILITY CREDITS PROVIDED TO YOU IN ACCORDANCE WITH THIS SLA ARE YOUR SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM.

### Availability during a Migration

If a cloud server migration is required because of cloud server host degradation, we will notify you at least a week in advance of beginning the migration, unless we determine in our reasonable judgment, that we must begin the migration sooner to protect your cloud server data. Either way, we guaranty that the migration will be complete within 24 hours of the time that we begin the migration.

## Availability

Availability during a Contracted Month	Availability Credit (% of Monthly Subscription Fee for Contracted Month which is the subject of a Claim)
98.9% or higher and less than 99.9%	1%
95% or higher and less than 98.9%	2%
Less than 95.0%	5% + 1% for any additional hour of Downtime

**“Availability”** is a percentage calculated as: (a) the total number of minutes in a Contracted Month, minus (b) the total number of minutes of Downtime in a Contracted Month, divided by (c) the total number of minutes in a Contracted Month, with the resulting fraction expressed as a percentage.

## Limitations and Exclusions

You are not entitled to a credit if you are not an Eligible Customer or you are in breach of the Customer Agreement (including your payment obligations to Supplier).

You are not entitled to a credit if Downtime would not have occurred but for your breach of the Customer Agreement or your misuse of the LMS Services.

Notwithstanding anything in this SLA to the contrary, the maximum total credit for the monthly billing period, including all guaranties, shall not exceed 50% of your fee for the respective monthly billing period. Credits that would be available but for this limitation will not be carried forward to future billing periods.

This SLA does not apply to the following:

- Beta and trial LMS
- Users with free access plan for the LMS Services.
- Non-production instances, including but not limited to test, disaster recovery, training, Q&A, or development.
- Claims made by Customer's Authorized Users of the LMS services.
- Services, programs, enabling software or agents running on client systems or third party- provided systems
- Customers that have breached any material obligations under the Customer Agreement, including without limitation, breach of any payment obligations.

END.