

190 Hubken Multi-LMS

Service Definition

1. Introduction

This document explains the detailed terms and how to get the best from our Multi-LMS service and should be read in conjunction with our Terms of Business available at <https://tob.hubkengroup.com>. In the event of any inconsistency between the provisions of this document and our Terms of Business, the terms contained within this document (in respect of such inconsistency) shall prevail.

This is a living document and is subject to updates and changes as and when required by us.

2. Definitions

Third-party plugin	Any plugin not included in Core LMS.
Core LMS, Core	Application code from the official Moodle Pty Ltd or Totara Learning (Europe) Ltd code repository.
LMS site, LMS	An instance of Moodle or the Totara Talent Experience Platform to which access is provided by us.
Master LMS site	An LMS accessed by site administrators only that is created for use as a template for creating new Production sites.
Production site	A LMS site accessed by users who are not site administrators
Update	An upward revision to a new minor version
Upgrade	An upward revision to a new full version
Multi-LMS service administrator	A user with access to the Hubken Controller management console.

3. Overall service scope

We will:

- Provide access to and permit use of multiple LMS sites on a generic sub domain provided by us or, on request, a valid sub domain provided by you.
- Manage the LMS sites so that they are up to date through Updates (minor versions) and Upgrades (major versions).
- Take commercially reasonable steps to ensure continuous access and functioning of the LMS sites without unscheduled service outages.
- Notify upstream Core developers of issues in the LMS software
- Functionality support for Multi-LMS service administrators.
- Provide a console to manage multiple LMS sites.

For the underlying hosting platform, we will:

- Monitor performance
- Apply relevant security patches as necessary
- Perform nightly backups (see Backup policy)
- Liaise with data centre personnel with aim of resolving service affecting issues

4. Services

The detailed terms in this document apply where the service named in our sales invoice includes the term "HubkenCore Multi-LMS "

4.1. Upgrades and Updates

You may request an Upgrade or Update at any time. Scheduling of and selection of the versions for Upgrade or Update are at our discretion.

Full version Upgrades are scheduled after the first minor release of the latest version (emergency releases excepted).

4.2. Other software

We are a provider of Services in relation to the LMS software and we cannot be responsible for any issues which arise from or involve any other software or its interaction with the LMS software.

4.3. Active users

The maximum number of Active users in our sales invoice.

4.4. Maximum LMS-sites

The maximum number of LMS sites in our sales invoice.

4.5. Multi-LMS service administrators

The maximum number of Multi-LMS service administrator in our sales invoice.

4.6. Service reviews

The service is subject to an annual review.

4.7. Hubken Controller requirements

You agree to provide the following during the whole period during which we set up and provide the Services:

- A single IPv4 IP address that will be used by Multi-LMS service administrators to access the Hubken Controller management console.
- A suitable wildcard TLS certificate for the LMS sites' domains(s).

5. Term

One year from the commencement date unless a different duration is stated in our sales invoice.

5.1. Notice to terminate

If you wish to cease receipt of the Service, you must notify us in writing at least 90 days prior to the end of the Term. Failure to do so will result in automatic continuation of the Service for an additional Term.

5.2. Data Retention on termination

On termination for any reason we will;

1. Delete all the LMS sites and delete the management console data within 30 days.
2. Delete data from our backups 14 days following the above site deletions.

6. Quotas

Quota	Definition
Storage space	<p>The total storage space available for the total of:</p> <p>All LMS application files, plugin files, files uploaded by users, all files created by the LMS application (including temporary files), files retained for version control, temporary backup files and the LMS application databases (including database backups).</p> <p>The underlying hosting platform's operating system and other components needed for the correct functioning of the LMS applications.</p>
Data transfer	<p>All transfers of data to and from the LMS sites (via the LMS user interface or otherwise). The data transfer quota is a monthly amount that is non-cumulative.</p>
Active users	<p>The total number of user accounts where the user can log in i.e. the user is not suspended or deleted. Includes LTI authenticated users.</p> <p>Active user accounts are not actively monitored. Where the service specification is insufficient to process higher than expected levels of user activity the end user experience may be degraded.</p> <p>We may state the total number of permitted Active users on our sales invoice.</p>
LMS sites	<p>The total number of LMS sites (including Master LMS sites) permitted for the service.</p>

6.1.1. Additional storage

Additional storage that extends the capacity of the service is subject to the terms of this agreement.

6.1.2. Email notifications

We do not restrict the number of email notifications sent by the LMS sites. Our platform is identified as the sender of all emails. You may use an email service that you control to identify you as the sender of email notifications, but this is not part of the Services we provide to you.

7. Branding

We agree to apply initial branding to a single reference site e.g. logo and accent colours.

8. Support for Multi-LMS service administrators

8.1. Request classifications

Definition	Description
P3 Incident	Issue preventing an individual from working.
P4 Incident	Minor issue/annoyance affecting individual or group.
Complex requests	The estimated time required to investigate or attempt to resolve the issue is 45 minutes or longer. The request relates to a third-party plugin.

8.2. Support request responses

Definition	Response Time	Cover Hours
P3 Incident	8 Hours	Support hours
P4 Incident	8 Hours	Support hours
Complex request	We reserve the right to defer the investigation or resolution attempt for non-service affecting issues. We will advise you when we have scheduled time to work on the issue.	Support hours

For Multi-LMS service administrator support purposes support hours are 09:00 to 17:00 UK local time, Monday to Friday excluding UK public holidays and working days between 26th December and 1st January.

These are the timetables which we will try to work to, but it may not always be possible to abide by them and it may not be possible to correct every issue that you raise. Our judgement on these issues shall be final.

8.3. Support for Multi-LMS service administrator scope

Support activity	Detail
Deal with support requests from current Multi-LMS service administrators for issues arising from functionality that can be configured by a site administrator from within the user interface.	For each support request we will perform one or more of the following actions: <ul style="list-style-type: none"> Investigate and attempt to resolve the issue. Provide relevant information e.g. to explain the solution, steps to prevent re-occurrence. Signpost information on external sites.

	<ul style="list-style-type: none"> • Suggest alternative options or approaches where we feel these may be beneficial. • Make recommendations qualified by the information provided in the support request. <p>Where a potential path to resolution, suggestion of options or a recommendation requires evaluation of an extended range of factors e.g. LMS capabilities, business processes and requirements, other external factors, pedagogical considerations this will be outside of the scope of support. We will refer you to a client relations colleague to discuss options e.g. consultancy, training or mentoring which are chargeable services.</p>
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8.4. Specific exclusions

On-site visits.
SCORM content package issues.
Software development.
Set-up, configuration or support of any external authentication (including SSO) or integration.
Remedies that are not commercially or technically feasible.
Modification of Core or plugin code.
Issues arising from additional code e.g. CSS, JavaScript added by your authorised users.
Third-party plugins.

8.5. Other

We may create additional user accounts, courses etc. if required to facilitate investigation or troubleshooting. You accept that these additional user accounts may reduce your Active user quotas for all purposes.

We require continuous, unrestricted access to provide the Services. You must not take any action to restrict our access.

8.6. Requesting support

Users permitted to request support.	<p>A real person with an individual account allocated as a Current Multi-LMS service administrator.</p> <p>We may decline to deal with support requests received from shared or service accounts.</p>
Email / Support Portal*	Our support desk accepts requests 24/7.

Phone*	During support hours.
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*We will provide the necessary contact details when the commencement of the Services is confirmed.

You must provide as much information as possible about the issue, including relevant URLs where appropriate.

A support request is a single reported issue with a single fix.

9. Acceptable use policy

This acceptable use policy sets out the terms between you and us under which you may use the Service.

By using the service, you accept and agree to abide by this acceptable use policy.

9.1. Prohibited uses

You may use the service only for lawful purposes. You may not use the service:

- In any way that breaches any applicable local, national or international law or regulation.
- In any way that is unlawful or fraudulent, or has any unlawful or fraudulent purpose or effect.
- For the purpose of harming or attempting to harm minors in any way.
- To send, knowingly receive, upload, download, use or re-use any material which does not comply with our content standards (see below)
- To transmit, or procure the sending of, any unsolicited or unauthorised advertising or promotional material or any other form of similar solicitation (spam).
- To knowingly transmit any data, send or upload any material that contains viruses, Trojan horses, worms, time-bombs, keystroke loggers, spyware, adware or any other harmful programs or similar computer code designed to adversely affect the operation of any computer software or hardware.

You also agree:

- Not to reproduce, duplicate, copy or re-sell any part of our website at hubkengroup.com (our site)
- Not to access without authority, interfere with, damage or disrupt:
 - any part of our website;
 - any software used in the provision of our website; or
 - any equipment or network or software owned or used by any third party.
- Not to undertake, or direct others, to undertake unauthorised Penetration Tests.
- To ensure that all usernames and passwords issued to you are kept safe and confidential. We are not responsible for any consequences of your username or password being compromised and we reserve the right to make a charge if we are

required to re-set your password or any other security setting more than once in any six-month period.

- Accept all version Upgrades, Updates and patches that we recommend enabling us to continue to provide our services.

9.2. Content standards

These content standards apply to any and all material which you or your authorised users contribute to the service (contributions), and to any interactive services associated with it. You must comply with the spirit of the following standards as well as the letter. The standards apply to each part of any contribution as well as to its whole. Contributions must not:

- Contain any material which is defamatory of any person, company, business or organisation.
- Contain any material which is obscene, offensive, hateful or inflammatory.
- Promote sexually explicit material.
- Promote violence.
- Promote discrimination based on race, sex, religion, nationality, disability, sexual orientation or age.
- Infringe any copyright, database right or trademark of any other person.
- Be likely to deceive any person.
- Be made in breach of any legal duty owed to a third party, such as a contractual duty or a duty of confidence.
- Promote any illegal activity.
- Be threatening, abuse or invade another's privacy, or cause annoyance, inconvenience or needless anxiety.
- Be likely to harass, upset, embarrass, alarm or annoy any other person.
- Be used to impersonate any person, or to misrepresent your identity or affiliation with any person.
- Give the impression that they emanate from us, if this is not the case.
- Advocate, promote or assist any unlawful act such as (by way of example only) copyright infringement or computer misuse.

9.3. Quotas

Your use of the Service must remain within the storage, data transfer, Active user quotas and any other quota specified in the invoice for the service or this document (or in any subsequent notice by us to modify them). Exceeding these quotas is a breach of our acceptable use policy and may incur additional fees, which become payable upon invoice by us.

You must ensure that each user account is only issued to and used by a single individual and that the guest login is not used by more than ten users simultaneously.

9.4. Concurrent Users

There is no metered limit, however, if the concurrent usage is too high the user experience will be degraded, and we'll require that you increase the specification of your Multi-LMS service.

9.5. Suspension and termination

We will determine, at our discretion, whether there has been a breach of this acceptable use policy through your use of the service. When a breach of this policy has occurred, we may take such action as we deem appropriate. Failure to comply with this acceptable use policy may result in our taking all or any of the following actions:

- Temporary or permanent withdrawal of your access to the LMS site(s).
- Immediate, temporary or permanent removal of any posting or material uploaded by you, or your authorised users, to the LMS site(s).
- Issue of a warning to you.
- Legal proceedings against you for reimbursement of all costs on an indemnity basis (including, but not limited to, reasonable administrative and legal costs) resulting from the breach.
- Further legal action against you if appropriate.
- Disclosure of such information to law enforcement authorities as we reasonably feel is necessary.

We exclude liability for actions taken in response to breaches of this acceptable use policy. The responses described in this policy are not limited, and we may take any other action we reasonably deem appropriate.

9.6. Changes to the acceptable use policy

We may revise this acceptable use policy at any time. You are expected to check this acceptable use policy from time to time to take notice of any changes we make, as they are legally binding on you. Some of the provisions contained in this acceptable use policy may also be superseded by provisions or notices published elsewhere on our website at <https://www.hubkengroup.com>.

10. Third-party plugin policy

We will at our discretion:

- Permit use of plugins with our service
- Remove plugins
- Perform updates to a plugin if new code is available from the plugin code source
- Notify plugin issues to the developer(s) via the listed bug tracker

We will not:

- Undertake plugin code fixes
- Provide any warranty regarding the suitability of a plugin for any purpose

- Accept liability for any loss arising from the installation, removal or use of a plugin
- Permit any plugin that:
 - enables direct access to Core LMS code or plugin code, user uploaded files or the underlying hosting platform
 - we consider incompatible with, or may affect the performance or security of the underlying hosting platform
 - requires modification of Core LMS code
 - contains code that we cannot inspect

10.1. Plugin updates and removal

10.1.1. Updates

We may make plugin updates at our discretion and such updates may be performed without a specific request from you.

You may request a plugin update at any time. Scheduling of and selection of the versions for update are at our discretion. We do not monitor third-party plugins for changes.

10.1.2. Removal

We may remove plugins at our discretion.

When we require that an installed plugin is removed, we will try to give you reasonable notice.

Where commercially and technically feasible, at your request, we will provide you with a copy of the data generated by the removed plugin.

10.2. Additional plugins

We may, at our discretion, use plugins as part of our service to you.

We do not guarantee the suitability of these additional plugins for any purpose or that we will include them indefinitely.

10.3. Implications of using third-party plugins

There are potential implications for which you agree we will not be liable, including (but not limited to): degraded security or performance of the Multi-LMS site service, data corruption, change or loss of functionality, inability to update or upgrade the LMS site.

11. Service availability

11.1. Incident classification

Definition	Description
P1 incident	A critical full outage/severe issue resulting in a catastrophic problem that causes complete inability to access the service and where there is no workaround or solution to the problem.

11.2. Service availability commitment

We will use commercially reasonable efforts to meet Service availability of 99.95% for our Service in a given calendar month.

11.2.1. Service credit entitlement

You are entitled to a service credit if Service availability falls below 99.95% in two consecutive months.

The service credit amount is equal to the pro-rated fees for the consecutive months in which the Service availability falls below 99.95%.

You must request a service credit within twenty days of the end of the second relevant consecutive calendar month, failing which your entitlement to a service credit will lapse.

When a service credit is due, we will deduct the amount of the service credit from the next invoice for this service. If no further invoices are due, at your request within 5 business days of us raising a credit, we will refund fees paid equal to the amount of the service credit to your bank account within 20 business days (you agree to pay bank charges for refunds made to non-GBP bank accounts).

A calendar month may be used for a single claim.

All Service availability calculations will be based on our system records and rounded up to two decimal places.

For the purposes of the Service availability commitment the following definitions apply:

Service availability	For a given calendar month: (The total hours <i>less</i> the total duration of unavailability caused by unscheduled maintenance, P1 incident(s), planned maintenance, Excluded event(s)) / (Total hours <i>less</i> the total duration of planned maintenance <i>plus</i> Excluded event(s)) X 100.
Excluded events	<ul style="list-style-type: none"> · Circumstances beyond our reasonable control including, but not limited to; force majeure, acts of Government, emergencies, natural disasters, pandemic, flood, fire, civil unrest, acts of terror, strikes or other labour issues (other than those involving our employees). · Any problems resulting from your combining, merging or integrating our service with any hardware, software or service not supplied by us. · Interruptions or delays in providing the service resulting from telecommunications or internet service provider failures outside of our data centre. · Any interruption or unavailability resulting from your misuse, improper use, configuration of the LMS site or exceeding any quota.

11.3. Planned maintenance

We will notify you of any planned service-affecting outages using the Multi-LMS service administrator email account(s) on our records. We will take reasonable steps to give you reasonable notice, but this may not always be possible.

11.4. Service messages

We may send service messages to the email addresses of Multi-LMS service administrators or any other method, at our discretion.

12. Exporting your data

12.1. Export by your site administrator

It's possible for you to export user and course data, without our assistance, using standard functionality available to users who are LMS site administrators. You may export your data at any time using this method.

12.2. Export by us

We will export your data at any time, subject to the terms of our Data Export or Totara Transfer service which will apply to each LMS site separately.

13. Security testing

13.1. Vulnerability scans

13.1.1. Schedule

We conduct a rolling weekly vulnerability scan programme of the underlying hosting platform.

13.1.2. Publishing results

We do not publish the results or actions taken following vulnerability scans.

13.2. Penetration tests

13.2.1. Unauthorised penetration tests

Unauthorised penetration tests undertaken or commissioned by you are a breach of our acceptable use policy.

13.2.2. Authorised penetration tests

We may, at our discretion, agree to authorise penetration tests undertaken by you or a third-party commissioned by you.

You must:

1. Comply with the date, time, scope or other conditions specified by us.
2. Provide us with an unabridged copy of the test report within three working days of the test date.
3. Ensure the test is undertaken within the first six months of any service contract year.
4. Pay our fees arranging the test with you and for dealing with identified issues in accordance with our then current Technical Support rates, except for Critical issues.

13.3. Resolution targets

13.3.1. Underlying hosting platform

Critical	We aim to correct issues that are capable of remedy by us within 10 days of discovery.
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Warning	We aim to correct issues that are capable of remedy by us within 60 days of discovery.
Advisory	We will correct issues that are capable of remedy by us, where we consider it commercially feasible, within 90 days of discovery.

13.3.2. LMS site

Critical	We aim to apply available official security patches within 45 days of the patch becoming available.
Warning	We aim to apply available official security patches within 90 days of the patch becoming available.
Advisory	We aim to apply available official security patches, where we consider it commercially feasible, within 90 days of the patch becoming available.

13.3.3. Other

Third-party plugins	In all cases issues are dealt with as detailed in our third-party plugin policy.
Upstream reporting	We report newly discovered issues to the LMS core development team.

For resolution purposes days are defined as 09:00 to 17:00 UK local time, Monday to Friday excluding UK public holidays and working days between 26th December and 1st January.

14. Experimental features

We do not provide support for any feature categorised as “experimental”.

15. Totara Talent Experience Platform

You accept that for each new Totara Talent Experience Platform site that you create for production use, a Totara subscription must be paid (from the date of creation) for the minimum term required by Totara Learning (Europe) Ltd.