

# Service Description

## HCL Unica Deliver

This Service Description (“Service Description”) describes the HCL Unica Deliver service (“HCL Unica Deliver” or “Cloud Service”). Additional terms governing HCL Unica Deliver is set forth in the HCL Cloud Service Agreement (“CSA”), available at <https://www.hcltechsw.com/wps/portal/resources/master-agreements>. This Service Description, any applicable Attachments, Order(s), and the CSA are the complete agreement regarding transactions under the CSA (collectively, the “Agreement”). Any capitalized terms used but not defined in this Service Description shall have the meanings given to such terms in the CSA or other applicable documents of the Agreement.

### 1. HCL Unica Deliver Definition

HCL Unica Deliver is a reliable, scalable and seamlessly integrated digital messaging solution, to provide timely and personalized communications across digital channels including Email and SMS. HCL Unica Deliver provides the following capabilities:

- A/B Testing
- Content Connectors
- Content Variations
- Advanced Scripting
- Landing Pages
- Conditional / Personalized Content
- Run on Time or Trigger Schedules

#### 1.1 Offerings

Customer may select from the following available offerings:

##### 1.1.1 Message Volume Entitlement

A message is an electronic communication sent through the HCL Unica Deliver service such as an email. Sufficient entitlements must be obtained to cover the estimated number of emails to be sent during the measurement period specified in a Proof of Entitlement or Order.

##### 1.1.2 Reputation Identity

A Reputation Identity is a combination of an IP address and/or Domain used to improve the deliverability of emails.

##### 1.1.3 Test Account

A Test Account is used to send test messages within a test, development, or staging environment. Test Accounts should never be used to send commercial messages.

## 2. Charge Metrics

The following charge metrics apply to this Cloud Service:

## **Messages Sent**

Messages Sent is a unit of measure by which the HCL Unica Deliver usage can be obtained. Messages can include any message sent through HCL Unica Deliver such as an email.

There can be exceptions which are not counted towards the number of messages sent such as SMS. Where messages are not counted towards usage, an additional contract with a third party will be in place to account for these messages.

A message is an electronic communication sent through the HCL Unica Deliver such as an email. Sufficient entitlements must be obtained to cover the estimated number of emails to be sent during the measurement period specified in a Proof of Entitlement or Order. Where actual usage is above or below the estimated usage then renegotiation of the Order will be required at the time of renewal for the following term to account for any disparity.

Customers are entitled to send 12m messages per year for every unit of this part procured.

## **Reputation Identity or Test Account**

Reputation Identity is a unit of measurement by which HCL Unica Deliver reputations can be obtained. A Reputation Identity is a combination of an IP address and/or Domain used to improve the deliverability of emails. Sufficient entitlements must be obtained to cover the number of Reputation Identities created for the Customer within the HCL Unica Deliver service.

Test Account is a unit of measurement by which HCL Unica Deliver test accounts can be obtained. A Test Account is used to send emails within a test, development, or staging environment. Sufficient entitlements must be obtained to cover the number of Test Accounts created for Customer within the HCL Unica Deliver. Additional entitlements can be purchased by the Customer supplying a valid purchase order.

Customers are entitled to a single reputation identity or test account for every unit of this part procured.

## **Additional Entitlements**

### **Deliver Onboarding Service**

Onboarding is a unit of measurement by which the success of Cloud Service adoption can be interpreted. Deliver Onboarding Services are provided as part of the Cloud Service, with a reasonable use limit of 45 hours per term. However due to outside influences such customer program complexity additional HCL Unica Deliver services may be required under an Engagement (defined below). Additional entitlements can be purchased by the Customer supplying a valid purchase order.

### **Deliverability**

Deliverability is a unit of measurement by which the success of a communication can be interpreted. Deliverability services are provided as part of the standard HCL Unica Deliver service, with a reasonable use limit of 10 hours per term. However due to outside influences such as data quality, additional HCL Unica Deliver services may be required under an Engagement. Additional entitlements can be purchased by the Customer supplying a valid purchase order.

## **Paid Services**

*A complete description of Paid Services is included in section 7.5 herein.*

## **Engagement**

Engagement is a unit of measurement by which professional services or Paid Services can be obtained. An Engagement consists of professional and/or training services including but not limited to a training event, business analysis, or a deliverable-based services event. Sufficient entitlements must be obtained to cover each Engagement. Where the standard HCL Unica Deliver Order does not cover the required level of professional services, an Engagement may be recommended to cover the needs of the Customer. Additional entitlements can be purchased by the Customer supplying a valid purchase order.

## **3. Charges and Billing**

Payment terms are as set forth in the CSA. The amount payable for the HCL Unica Deliver is specified in an Order. One time setup charges will be applied upon initial provisioning of the HCL Unica Deliver from the point at which login credentials are supplied to the Customer. The rate and billing term will be specified in an order and billing will accordingly begin once login credentials are supplied to the Customer.

### **3.1 Partial Month Charges**

A partial month charge as specified in the Order may be assessed on a pro-rated basis.

### **3.2 Billing Frequency**

Based on selected billing frequency, HCL will invoice Customer the charges due at the beginning of the billing frequency term, except for overage and usage type of charges which will be invoiced in arrears.

### **3.3 Derived Benefit Locations**

Tax terms are as set forth in the CSA. Where applicable, taxes are based upon the location(s) Customer identifies as receiving benefit of the Cloud Service. HCL will apply taxes based upon the business address listed when ordering Cloud Service as the primary benefit location unless Customer provides additional information to HCL. Customer is responsible for keeping such information current and providing any changes to HCL.

### **3.4 Metering and Reporting Usage**

Effective with the 12.1 release, this Cloud Service is enabled for "Active License Management" where in all entitlements will be metered, based upon actual usage. Usage data will be transparent and will be available in the Unica Program(s). The usage data is required to be transmitted to HCL Software's third party licensing platform "FlexNet Operations" via a "License Server" that is deployed with the Unica Program(s). "Program(s)" means the Unica software, which includes object code and any third party software, and all accompanying software and software support documentation delivered by HCL to Customer under the applicable governing software license agreement. To enable the transmission of the usage data, the Customer agrees to install and deploy the License Server along with the Program(s) and the Cloud Service. The Customer is expected to keep the License Server online such that the usage can be regularly synced with FlexNet Operations. In the case where the License Server at the Customer's site remains offline or if the usage data cannot automatically be transmitted to FlexNet Operations, the Customer agrees to send the encrypted daily usage report once every six months to FlexNet Operations. The daily usage report is available for the Customer to download from the Program(s) in an encrypted

form. The Customer agrees to send this report “as is” without attempting to make any modifications to it. Further Customer agrees to install hotfixes or fixpacks in a timely manner (within two months of release) to allow to comply with Active License Management. Customer also agrees to mark the correct environment as its production environment as Active License Management is limited only to the production environment. HCL Software reserves the right to not provide software support to any Customer that does not comply with the above requirements for Active License Management.

#### 4. Term and Renewal Options

The term of the Cloud Service begins on the date HCL notifies Customer of its access to the Cloud Service, as documented in the Proof of Entitlement. The Proof of Entitlement will specify whether the Cloud Service renews automatically, or terminates at the end of the term.

For automatic renewal, unless Customer provides written notice not to renew at least 90 days prior to the term expiration date, the Cloud Service will automatically renew for the term specified in the Proof of Entitlement.

#### 5. Technical Support

During the Subscription Period and after HCL notifies Customer that access to the Cloud Service is available, additional technical support information is available at the then current HCL Website made available to Customer by HCL or as set forth in the Agreement.

Severity	Severity Definition	Response Time Objectives	Response Time Coverage
1	Critical business impact/service down: Business critical functionality is inoperable or critical interface has failed. This usually applies to a production environment and indicates an inability to access services resulting in a critical impact on operations. This condition requires an immediate solution.	Within 1 hour	24/7
2	Significant business impact: A service business feature or function of the Cloud Service is severely restricted in its use or Customer is in jeopardy of missing business deadlines.	Within 2 business hours	M-F business hours
3	Minor business impact: Indicates the Cloud Service or functionality is usable and it is not a critical impact on operations.	Within 4 business hours	M-F business hours
4	Minimal business impact: An inquiry or non-technical request.	Within 1 business day	M-F business hours

## 5.1 Access to Customer Data

Named individuals (governed by strictly controlled access procedures), within HCL will be able to access Customer data for the purpose of diagnosing issues with the Cloud Service, and facilitating scans of Customer's application by the Cloud Service. HCL will access the data only for the purposes of fixing defects or to provide support for HCL products or services.

## 6. Service Level Agreement

HCL provides the following availability service level agreement ("SLA") for the Cloud Service. The SLA is not a warranty and is Customer's sole and exclusive remedy. The SLA is available only to Customer and applies only to use in production environments.

### 6.1 Service Levels

- HCL Unica Deliver has a target uptime of 99.9%.
- HCL Unica Deliver-specific service requests will be acknowledged within the same working day.
- Technical issues will be dealt with in accordance to the HCL Technical Support SLAs.

### 6.2 Definitions

- a. "Contracted Month" means each full month during the term of the Service measured from 12:00 a.m. GMT on the first day of the month through 11:59 p.m. GMT on the last day of the month.
- b. "Downtime" means a period of time during which users of the Service are unable to use all aspects of the Service for which they have appropriate permissions and/or Inbound Processing Downtime applicable to the Service falls below the Service Level shown in Section 6.1 above. By way of clarification, there is no Downtime if any user can use any aspect of the Service for which they have appropriate permissions. Downtime does not include the period of time when the Service is not available as a result of:
  1. Planned System Downtime.
  2. Force Majeure.
  3. Problems with Customer or third party applications, equipment, or data.
  4. Customer or third party acts or omissions (including anyone gaining access to the Service by means of your passwords or equipment).
  5. Failure to adhere to required system configurations and supported platforms for accessing the Service.
  6. HCL's compliance with any designs, specifications, or instructions provided by Customer or a third party on Customer's behalf.
- c. "Event" means a circumstance or set of circumstances taken together, resulting in a failure to meet a Service Level.
- d. "Force Majeure" means acts of God, terrorism, labor action, fire, flood, earthquake, riot, war, governmental acts, orders or restrictions, viruses, denial of service attacks and other malicious conduct, utility and network connectivity failures, or any other cause of Service unavailability that was outside HCL's reasonable control.
- e. "Inbound Processing Downtime", if applicable, means a period of time during which the Service is unable to collect inbound data via the inbound data processing elements of the Service.
- f. "Planned System Downtime" means a scheduled outage of the Service for the purpose of service maintenance.

- g. "Service" means the Cloud Service to which this SLA applies.
- h. "Service Level" means the standard set forth below by which HCL measures the level of service it provides in this SLA.

### **6.3 Exclusions**

This SLA is made available only to HCL Customers. This SLA does not apply to the following:

- Beta and trial Services;
- Non-production environments, including but not limited to test, disaster recovery, Q&A, or development;
- Claims made by an HCL Customer's users, guests, and participants of the Service; and
- If Customer has breached any of its material obligations under section 7 herein or the CSA, including without limitation, breach of any payment obligations.

The Customer is responsible for the results obtained from the use of the HCL Unica Deliver service.

## **7. HCL Unica Deliver Additional Terms**

### **7.1 Benchmarking**

Customer may disclose the results of any benchmark test of the Cloud Service or its subcomponents to any third party provided that Customer (A) publicly discloses the complete methodology used in the benchmark test (for example, hardware and software setup, installation procedure and configuration files), (B) performs Customer's benchmark testing running the Cloud Service in conjunction with its on-premises environment using the latest applicable updates, patches and fixes available for the Cloud Service and Supporting Programs from HCL or third parties that provide HCL products ("Third Parties"), and (C) follows any and all performance tuning and "best practices" guidance available in the Cloud Service's documentation and on HCL's support web sites for the Cloud Service. If Customer publishes the results of any benchmark tests for the Cloud Service, then notwithstanding anything to the contrary in any agreement between Customer and HCL or Third Parties, HCL and Third Parties will have the right to publish the results of benchmark tests with respect to Customer's products provided HCL or Third Parties complies with the requirements of (A), (B) and (C) above in its testing of Customer's products.

The above benchmarking terms apply to the following Cloud Services or subcomponents of "Unica Marketing Platform":

- HCL Unica Deliver 12.1
- HCL Unica Campaign v12.1
- HCL Unica Journey 12.1

### **7.2 Data Use & Cookies**

Please review HCL Privacy Statement information here: <https://www.hcltech.com/privacy-statement>. Additional terms regarding content, data use and protection, and cookies are as set forth in the CSA.

Customer is aware and agrees that HCL may, as part of the normal operation and support of the HCL Unica Deliver, collect personal information from Customer (Customer's employees and contractors) related to the use of the HCL Unica Deliver, through tracking and other technologies. HCL does so to gather usage statistics and

information about effectiveness of the HCL Unica Deliver for the purpose of improving user experience and/or tailoring interactions with Customer. Customer confirms that it will obtain or have obtained consent to allow HCL to process the collected personal information for the above purpose within HCL, other HCL companies and their subcontractors, wherever HCL and such subcontractors do business, in compliance with applicable law. HCL will comply with requests from Customer's employees and contractors to access, update, correct or delete their collected personal information.

As part of the HCL Unica Deliver, that includes reporting activities, HCL will prepare and maintain de-identified and aggregate information collected from HCL Unica Deliver ("Security Data"). The Security Data will not identify Customer, or an individual except as provided herein. Customer herein additionally agrees that HCL may use and/or copy the Security Data only for the following purposes:

- publishing and/or distributing the Security Data (e.g., in compilations and/or analyses related to cybersecurity);
- developing or enhancing products or services;
- conducting research internally or with third parties; and
- lawful sharing of confirmed third party perpetrator information.

### **7.3 Account Creation and Access**

When HCL Unica Deliver users register for an account ("Account"), HCL may provide the HCL Unica Deliver user with an Account identification and password. The Customer is responsible for ensuring that each HCL Unica Deliver user manages and keeps their Account information current. At any time, the Customer may request that any Personal Data provided as part of registering for an Account or use of the HCL Unica Deliver be corrected or removed from Account information and this information will be corrected or removed, but removal may prevent access to the HCL Unica Deliver.

The Customer is responsible for ensuring that each HCL Unica Deliver user protects their Account identification and password and controls who may access a HCL Unica Deliver user Account or use any HCL Unica Deliver on Customer's behalf.

### **7.4 Enabling Software**

On Demand Setup

On Demand Setup parts of the HCL Unica Deliver are orderable by Customer on an as-needed basis and are subject to the Agreement and any applicable Order.

The following On Demand Setup parts are available for order as part of the HCL Unica Deliver:

- Reputation Identity
- Test Account

### **7.5 Remote Service Engagements (Human Based)**

The following Remote Service Engagements (Human Based) are available at an additional charge:

#### **7.5.1 HCL Unica Deliver Onboarding Service**

Provides up to 45 hours of remote consulting, best practices, training and configuration for onboarding

Customers to HCL Unica Deliver. Remote services expire 90 days from purchase regardless of whether all hours have been used.

#### **7.5.2 HCL Unica Deliver Delivery Service**

Provides up to 15 hours of and three items per offering of: analysis mailing reputation with recommendations to sustain a positive mailing reputation; review and discuss methods to improve inbox delivery; analysis and recommendations to minimize spam complaints. Remote services expire 90 days from purchase regardless of whether all hours have been used.

#### **7.5.3 HCL Unica Deliver Content Service**

Provides up to 15 hours of and three items per offering of: optimize html templates to maximize personalization; content analysis for email client and device; review content to ensure optimal delivery; provide methods for creating landing pages based upon use cases. Remote services expire 90 days from purchase regardless of whether all hours have been used.

#### **7.5.4 HCL Unica Deliver Best Practices Service**

Provides up to 15 hours of and three items per offering of: campaign analysis review; develop multi-wave campaigns; how to properly re-engage or deactivate segments; how to analyze unsubscribed/spam complaints with other channels; brand and reputation strategy management; A/B split setup review; advanced scripting review. Remote services expire 90 days from purchase regardless of whether all hours have been used.

#### **7.5.5 HCL Unica Deliver Custom Email Service**

Provides up to 15 hours of pre-defined HCL Unica Deliver services. Remote services expire 90 days from purchase regardless of whether all hours have been used.

### **7.6. Acceptable Use of the Cloud Service**

As a multi-tenant service, HCL monitors sender activity so as to protect all senders sharing Cloud Services. HCL may temporarily suspend or terminate account activity, as set forth in the CSA, where it is determined necessary for the protection of the Cloud Service.

Reasons for suspension include, but may not be limited to:

1. Atypical product usage that causes excessive strain on the platform. Examples of this include penetration testing in production, bad scripting, using "BCC" in large campaigns and repeated 0 recipient flow charts.
2. Sending to users that have not given express consent to receive communications. This includes sending to purchased, rented, appended, scraped, or otherwise non-permission based lists.
3. Sending to data that generates excessive levels of abuse complaints such that HCL determines our network to be at risk.
4. Sending content that is:
  - promoting illegal goods,
  - violating relevant anti-spam laws, and/or
  - promoting hate, violence or harm.



## **8. Emergency Maintenance & Scheduled Maintenance**

HCL may provide Support as set forth and described in the CSA. HCL performs regularly scheduled maintenance during pre-defined maintenance windows defined by HCL. Other scheduled and non-scheduled down times may occur. HCL Unica Deliver will not be available during these times.

Customers will be notified of scheduled maintenance 30 days before the event. However, emergency maintenance may be necessary in reaction to an unforeseen event and therefore notification may not be possible.

HCL expects all in-flight mailings to be processed during maintenance downtimes and in the event that in-flight mailings need to be suspended, sending will resume once the Cloud Service is restored.

## **9. Updates; Applicable Terms and Authorization for Auto Updates**

This Service Description applies to all enhancements, modifications, variations, revisions, updates, supplements, add-on components, and replacements for the HCL Unica Deliver (collectively, "Updates") that HCL may provide or make available for the HCL Unica Deliver service, subject to any additional terms provided by HCL applicable to such Updates.

Customer authorizes HCL to in accordance with HCL's standard operating procedures, automatically transmit, access, install, and otherwise provide Updates to HCL Unica Deliver without further notice or need for consent.

HCL is under no legal obligation to create, provide, or install Updates relating to HCL Unica Deliver.

## **10. Updates to Service Description**

HCL reserves the right to modify this Service Description, to account for any Updates that HCL may make available for the HCL Unica Deliver service during the Subscription Period and as otherwise required by applicable law, by providing at least thirty (30) days' notice of such modified terms to Customer. Subscription renewals will be governed by the Service Description in effect at the time of renewal.

## **11. Cloud Service Unique Terms**

Included in the subscription fee for the HCL Unica Deliver service is the following:

- One Reputation Identity,
- One Test Account, and
- Up to five (5) Monthly HCL Unica Deliver Services hours per month for general deliverability guidance and document editor assistance.