

DATA CENTER SERVICES (DCS) TERMS AND CONDITIONS

This agreement is part of and incorporated within the Interagency/Interlocal Contract ("Contract") that has been entered into by the contracting parties. DIR Customer acknowledges and agrees that this Contract is with DIR and, therefore, DIR Customer does not have privity of contract with the Service Component Providers (SCPs).

Capitalized terms not defined herein shall have the meaning set forth in the relevant DIR Shared Services Contract.

Data Center Services include the following service components:

1. Application Development, Maintenance, and Staff Augmentation services provided by the Technology Solution Services (TSS) SCP
2. Data Center Infrastructure Hosting and Support Services provided by the following SCPs
 - a. Texas Private Cloud (TPC)
 - b. Mainframe Services
 - c. Public Cloud Manager (PCM)
 - d. Security Operations
 - e. Print, Mail and Digitization

DIR Customer agrees to the following conditions to the extent services are being requested and/or consumed.

Section I:

DIR Customer agrees to the following conditions for receiving Data Center Program Services:

- 1.1 The following terms apply to the extent Microsoft Covered Online Services are purchased through the Data Center:

Microsoft Dispute Process Agreement

If there are any disputes between DIR Customer and Microsoft regarding a Covered Disclosure, DIR Customer agrees to provide DIR (or its successor) written notice of the nature of such dispute. DIR will review, and DIR Customer grants and assigns to DIR the authority to resolve such dispute on behalf of DIR Customer regarding the Covered Disclosure. DIR will consult reasonably with DIR Customer and DIR Customer will provide reasonable assistance and cooperation to DIR in that resolution process. DIR Customer agrees that it will seek relief for any damages related to Covered Online Services solely through DIR, whether such Covered Online Services were purchased directly by DIR Customer or on behalf of DIR Customer by DIR or any other entity, and under any agreement.

Further, to the extent DIR receives the requisite authority to receive and disburse funds from Microsoft, DIR Customer agrees to grant and assign DIR sole authority to receive from Microsoft on its behalf and disburse to DIR Customer liability payments made by Microsoft for a Covered Disclosure in the manner set forth in the Enterprise Agreement, except as provided in the following sentence. Notwithstanding anything to the contrary in the Enterprise Agreement or any other agreement pursuant to which DIR Customer acquires Covered Online Services through DIR, and notwithstanding whether or not DIR receives the requisite authority, Microsoft's liability to DIR Customer for such Covered Online Services will be limited solely to an amount determined by DIR, subject to Microsoft's limitation of liability to DIR on behalf of DIR Customer and other entities. DIR Customer shall only communicate with DIR when seeking payments from Microsoft for any damages resulting from Covered Online Services, and shall accept as final DIR's decision as to the amount of such damages DIR Customer is entitled to receive.

"Covered Disclosure" means disclosure of Customer Data as a result of a Security Incident, as defined in the Online Services Terms that arises, in whole or in part, out of Microsoft's breach of its obligations under the Agreement related to Customer Data.

"Covered Online Services" means any Online Service included in the section of the Online Services Terms titled "Data Processing Terms" and specifically including Microsoft Dynamics 365 Core Services, Office 365 Services, Microsoft Azure Core Services, Microsoft Intune Online Services, and Microsoft Power BI Services.

- 1.2 DIR Customer agrees to cooperate fully with all DCS Service Component Providers in the provision of Services.
- 1.3 DIR Customer agrees the request for an application development or maintenance solution proposal is for the purpose to determine whether to purchase that solution from the TSS SCP. DIR Customer acknowledges that DCS purchases are subject to Texas Government Code 2054 purchasing requirements and are not subject to Texas Government Code 2157 purchasing requirements.
- 1.4 To the extent that a DIR Customer requests to purchase Software as a Service (SaaS) through the DCS program, DIR Customer agrees to comply with all relevant purchasing statutes, rules, other law, policies, and procedures, including those relating to DIR's Cooperative Contracts and those established under Texas Government Code Chapter 2157.
- 1.5 DIR Customer shall comply with all Shared Technology Services (STS) policies, procedures, and processes in the relevant Service Management Manual (SMM(s)) and as provided by DIR.

Section II:

DIR Customer agrees to the following conditions for receiving application services under TSS:

2.1 Application Development and Maintenance Services are provided by the TSS SCP and the delivery of these services requires DCS technical infrastructure hosting:

2.1.1 **Application Development Services:** All applications developed through TSS must be hosted within the DCS program, either public or private clouds. This includes all environments such as development, test, staging, etc.

2.1.2 **Application Maintenance Services:** All environments, including development, test, staging, and production, must be hosted within the DCS program, either public or private clouds. If the Customer's application is not being hosted within the DCS program at the time the Customer requests services, the TSS Service Component Provider must include the transition of the infrastructure to the DCS program as part of its scope of work and price.

2.1.3 **Application Staff Augmentation:** These resources can only be provided to Customers that participate in the DCS program, and only to perform work on applications residing on infrastructure in the DCS program, either public or private clouds.

Section III:

The following term applies to the extent DIR Customer utilizes DCS Public Cloud offerings.

3.1 DIR Customer shall utilize approved DCS network solutions to access DCS public clouds. DIR Customers will support and align with the standard enterprise service responsibilities for public cloud management.