
Change information:

- July 2022: United Kingdom section updated.
- July 2022: Thailand Personal Data Protection Act (PDPA) added.
- July 2022: Japan Act on the Protection of Personal Information (APPI) added.
- July 2022: Swiss Federal Act on Data Protection (FADP) added.
- December 2021: Singapore Personal Data Protection Act (PDPA) added.
- December 2021: China Personal Information Protection Law (PIPL) added.
- September 2021: United Kingdom section updated.
- March 2021: UK Data Protection Act 2018 reference updated.
- December 2020: Appendix on Additional Safeguards to EU Standard Contractual Clauses (EU SCCs).
- July 2020: Brazil's General Data Protection Law, Lei Geral de Proteção de Dados (LGPD) data protection law updated.
- July 2020: Serbia Data Protection Law updated.
- March 2020: Brazil's General Data Protection Law, Lei Geral de Proteção de Dados (LGPD) data protection law added.
- March 2020: UK Data Protection Act 2018 added to United Kingdom.
- December 2019: California Consumer Privacy Act of 2018 data protection law added.
- September 2019: European Economic Area data protection law added.
- August 2019: Serbia data protection law added.

The Kyndryl Data Processing Addendum at <https://www.kyndryl.com/terms/dpa> (DPA) applies to the Processing of Personal Data by Kyndryl on behalf of Client under the Agreement in order to provide and improve the Kyndryl Services and other Kyndryl services that utilize the same underlying technology or tools, and as otherwise set out in the Agreement, if and to the extent i) the European General Data Protection Regulation (EU/2016/679) (GDPR); or ii) any other data protection laws identified below apply.

The Appendix on Additional Safeguards to EU Standard Contractual Clauses, reported below, supplements and is made part of the EU SCCs, set out in the DPA Exhibit, as applicable.

The DPA prevails over any conflicting term of the Agreement.

European Economic Area:

European Union Regulations and EEA Member State laws, other than GDPR, requiring a contract governing the processing of personal data, identical to or substantially similar to the requirements specified in Art. 28 of the GDPR.

United Kingdom:

The UK General Data Protection Regulation (as incorporated into UK law under the European Union (Withdrawal) Act 2018), and the UK Data Protection Act 2018, both as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019, as amended, superseded or replaced.

When data controller is a UK Client or when Client is acting on behalf of a UK Controller, for the purpose of Section 8 of the DPA, the International Data Transfer Addendum to the EU Commission Standard Contractual Clauses (Version B1.0, in force 21 March 2022) will be implemented for transfers to Non-Adequate Countries subject to the UK General Data Protection Regulation (UK Addendum); and language in section 8.2 is amended as follows and sections 8.3 and 8.4 shall be construed accordingly:

8.2. By entering into the Agreement

- a. If Kyndryl is located in a country considered to have an adequate level of protection pursuant to an adequacy decision under Article 45 of the UK General Data Protection Regulation, Kyndryl will enter into the UK Addendum with each Subprocessor located in a Non-Adequate Country as listed in the respective DPA Exhibit.
- b. If Client, Kyndryl, or both are located in a Non-Adequate Country, Client and Kyndryl are entering into the UK Addendum as set out in the applicable DPA Exhibit.
- c. If the UK Addendum is not required between the parties because they are located in a country considered adequate by the UK General Data Protection Regulation, but during the Service the country where Kyndryl or Client is located becomes a Non-Adequate country, the UK Addendum will apply.

The parties acknowledge that the applicable module of the EU SCC that the UK Addendum is attached to under b. or c. above will be determined by their role as Controller and/or Processor under the circumstances of each case and are responsible for determining the correct role undertaken in order to fulfil the appropriate obligations under the applicable module.

Serbia:

Law on Personal Data Protection (Zakon o zaštiti podataka o ličnosti; Official Gazette of the Republic of Serbia, no 87/2018).

In the case of a transfer of Client Personal Data to a Non-Adequate Country, by entering into the Agreement, the Client is entering to the Serbian Standard Contractual Clauses (Serbian SCC) as adopted by the "Serbian Commissioner for Information of Public Importance and Personal Data Protection", published at <https://www.poverenik.rs/images/stories/dokumentacija-nova/podzakonski-akti/Klauzulelat.docx> to provide an adequate level of protection. Section 8.2 to 8.4 of the DPA shall not apply to these transfers. Serbian SCC, including any claims arising from them, are subject to the terms set forth in the Agreement, including the exclusions and limitations of liability. In case of conflict, the Serbian SCC shall prevail.

Information required to complete Appendices 1 to 8 of the Serbian SCC for the purpose of governing the transfer of Personal Data to a Non-Adequate Country can be found in the DPA and DPA Exhibit.

Upon request, Kyndryl will provide a copy of the Serbian SCCs in the Serbian language signed by the Kyndryl Data Importers. Please submit requests to chiefprivacyoffice@kyndryl.com.

Brazil:

The Brazil's General Data Protection Law, Lei Geral de Proteção de Dados (LGPD), upon entering into force. For the sake of clarity, Kyndryl's obligations to a Client under the DPA are only those express obligations imposed by LGPD on a "Data Processor (operador)" for the benefit of a "Data Controller (Controlador)" (including new Section 1.6 below), as "Data Controller (controlador)" and "Data Processor (operador)" are defined by the LGPD:

- 1.6. Each party is responsible to fulfil its respective obligations set out in the LGPD, and Client will only issue Processing instructions, as set forth in Section 1.3 of this DPA, that enable Kyndryl to fulfill its LGPD obligations.

For the purpose of Section 8, the EU SCC will be used for transfers to non-adequate countries as per GDPR.

State of California, United States:

The California Consumer Privacy Act of 2018 (CCPA) upon entering into force. Kyndryl's obligations to Client under the DPA are those that the CCPA requires that a "Business" have in place with a "Service Provider" (including new Section 1.6 below), as "Service Provider" and "Business" are defined by the CCPA:

- 1.6. Kyndryl will not further collect, sell, retain, disclose or use the Personal Information of the Consumer for any purpose other than to perform the Services specified in the Agreement, or as otherwise permitted by CCPA. Kyndryl certifies that it understands and will comply with the restrictions set forth in this Section 1.6.

The terms used in the applicable provisions of the DPA shall be replaced as follows: "Personal Data" shall mean "Personal Information"; "Controller" shall mean "Business"; "Processor" shall mean "Service Provider"; and "Data Subject" shall mean "Consumer".

China:

The People's Republic of China Personal Information Protection Law (PIPL). For clarity, Kyndryl's obligations to Client under the DPA are only those that the PIPL requires that Kyndryl as "Entrusted Party" have in place with a "Personal Information Processor", as "Entrusted Party" and "Personal Information Processor" are referenced in the PIPL.

Singapore:

The Personal Data Protection Act 2012 No. 26 of 2012, as amended from time to time, and its accompanying regulations. For clarity, Kyndryl's obligations to Client under the DPA are only those express obligations imposed by PDPA on a "Data Processor (data intermediary)" when processing personal data on behalf of "Data Controller (organisation)" pursuant to a contract, as "organisation" and "data intermediary" are defined by the PDPA.

In case of a transfer of Client Personal Data outside of Singapore, the DPA applies excluding Section 8.

Switzerland:

Swiss Federal Act on Data Protection. If and to the extent a transfer of Client Personal Data under Section 8.1 of the DPA is subject to the Swiss Federal Act on Data Protection ("**FADP**"), the EU SCC agreed in Section 8.2 of the DPA shall govern the transfer, with the following adaptations to adopt the GDPR standard for Swiss Personal Data. References to "GDPR" in the agreed EU SCC shall be understood also as references to the FADP and interpreted in a way (1) to permit data subjects in Switzerland to seek redress for their rights in Switzerland in accordance with Clause 18 of the EU SCC, (2) to designate the Swiss Data Protection and Information Commissioner ("**FDPIC**") as the competent supervisory authority in accordance with Clause 13 and Annex I. C. of the EU SCC and (3) to choose Swiss law as the governing law in accordance with Clause 17 of the EU SCC in case the transfer is exclusively subject to the FADP. For the avoidance of doubt, none of the above is intended to decrease the level of data protection provided by the EU SCC in any way, but only to extend this level of protection to Swiss data subjects. If and to the extent this is not the case, the EU SCC shall prevail.

Japan:

Japan's Act on the Protection of Personal Information (Act No. 57 of 2003) as amended and its accompanying regulations (the "APPI") and the Act on Use of Numbers to Identify a Specific Individual in the Administrative Procedure (Act No. 27 of 2013) as amended (the "My Number Act").

For clarity, Kyndryl's obligations to Client under the DPA are only those explicit obligations imposed by APPI and the My Number Act, except for Section 8 of DPA. To the extent required, Security measures of the Data Security and Privacy Principles document apply to transfers outside Japan as well.

The terms used in the applicable provisions of the DPA and its Exhibits shall be replaced as follows: "Controller" shall mean "Personal Information Handling Business Operator"; "Process" shall mean "Handle"; "Processor" shall mean "Trustee"; "Subprocessor" shall mean "Subtrustee"; "Data Subject" shall mean "Principal"; and "Special Categories of Personal Data" shall mean "Special-care required Personal Information".

Thailand:

The Personal Data Protection Act B.E. 2562 (2019) (PDPA) entered into force on June 1, 2022. The DPA applies respectively to the processing of personal data subject to the PDPA, except for its Section 8.

Appendix on Additional Safeguards to EU Standard Contractual Clauses (EU SCCs)

1. In accordance with the July 16, 2020 decision of the Court of Justice of the European Union (CJEU) in Case C-311/18 *Data Protection Commissioner v. Facebook Ireland Limited and Maximilian Schrems*, and without prejudice to any provisions of the DPA, Kyndryl will undertake additional safeguards to secure Personal Data transferred on the basis of European Union (EU) Standard Contractual Clauses (SCCs) to those countries whose laws are likely to have a substantial adverse effect on the level of data protection offered by the EU SCCs and required under EU data protection law.
2. Kyndryl will implement and maintain the technical and organizational measures, as specified in the DPA Exhibit, such as encryption, access controls, or similar technologies, as applicable and agreed with the Client, to protect Client Personal Data against any processing for national security or other government purposes that are determined to be massive, disproportionate, or indiscriminate in a manner that goes

beyond what is necessary in a democratic society, considering the type of processing activities and the Kyndryl's scope of responsibility.

For the purposes of safeguarding Client Personal Data when any government or regulatory authority requests access to such data, Kyndryl has implemented and shall continue to comply with the provisions of the letter to our clients "[Governmental Requests for Customer Data](#)" (Data Access Letter), and is also making available its "[Law Enforcement Requests Transparency Report](#)" (Transparency Report). Kyndryl reserves the right to modify this Appendix, provided the additional safeguards contained therein are not degraded.