

CCPA/CPRA Addendum

- (i) California Consumer Privacy Act (CCPA) as amended by the California Privacy Rights Act (CPRA) requires Kyndryl, as an entity falling under the CPRA definition of “business”, to place certain obligations on suppliers, either acting as “service provider”, “contractor” or “third party”, which process consumers’ personal information of California residents disclosed by Kyndryl (“Kyndryl Personal Data”) for the purposes laid out in the contract between the parties.
- (ii) Effective January 1st 2023, the contractual relationship between Kyndryl and You, as Kyndryl supplier processing Kyndryl Personal Data (“Supplier”) must provide certain minimum contract terms in compliance with California privacy law.
- (iii) Supplier has been notified by Kyndryl with the new set of applicable clauses which incorporate into the existing contractual relationship between Kyndryl and Supplier.
- (iv) Supplier has also been notified that by continuing to provide goods, services or other items to Kyndryl without raising any objection by January 1st, 2023, Supplier will be considered to have agreed to the terms of CCPA/CPRA Addendum.

NOW, THEREFORE, IT IS AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

Article 1

- 1.1. This CCPA/CPRA Addendum is intended to amend the existing contractual relationship between Kyndryl and Supplier to accommodate the requirements of the California Consumer Privacy Act (CCPA) as amended by the California Privacy Rights Act (CPRA).
- 1.2. With respect to the services and deliverables that Supplier provides under the contractual relationship with Kyndryl (“Services”), if and to the extent a processing of Kyndryl Personal Data, as defined above, occurs, the following terms and conditions do apply.
- 1.3. In the event of any conflict between the terms of this CCPA/CPRA Addendum and any other agreement between the parties (including any data processing agreement), the terms of this CCPA/CPRA Addendum will prevail.

Article 2

2.1 The agreement between Kyndryl and Supplier is amended as follows:

- (i) Purpose of Processing. Supplier will process Kyndryl Personal Data in accordance with Kyndryl’s instructions for the sole purpose of providing the Services. If Supplier does not accommodate an instruction, Kyndryl may terminate the affected part of the Services on written notice. Supplier will not retain, use or disclose Kyndryl Personal Data for any purpose other than for the business and commercial purposes laid out in the contract between the parties or in Kyndryl’s instructions.
- (ii) Prohibition to Sell Kyndryl Personal Data. Supplier will not sell Kyndryl Personal Data or use or disclose Kyndryl Personal Data for any marketing purpose without Kyndryl’s prior written consent, and where required, the prior written consent of affected Data Subjects. For the purpose of this CCPA/CPRA Addendum, “Sell” (or “selling”) means selling, renting, releasing, disclosing, disseminating, making available, transferring, or otherwise communicating orally, in writing, or by electronic or other means, a consumer’s personal information for monetary or other valuable consideration.
- (iii) Compliance with CCPA and CPRA. Supplier will comply with applicable obligations under the CCPA and CPRA and will provide the same level of privacy protections to the data as California’s privacy law requires.

- (iv) Right to Audit. Kyndryl is permitted to monitor Kyndryl Personal Data's contractual compliance. Kyndryl has the right to take reasonable and appropriate steps to ensure that Supplier uses Kyndryl Personal Data in a manner consistent with Kyndryl's obligations under the California's privacy law. Supplier will maintain an auditable record demonstrating compliance with this CCPA/CPRA Addendum. At least once a year, Kyndryl, by itself or with an external auditor, may, upon 30 Days prior written notice to Supplier, verify Supplier's compliance with this CCPA/CPRA Addendum, including by accessing any facility or facilities for such purposes, though Kyndryl will not access any data center where supplier processes Kyndryl Personal Data unless it has a good faith reason to believe that doing so would provide relevant information. Supplier will cooperate with Kyndryl's verification, including by timely and fully responding to requests for information, whether through documents, other records, interviews of relevant Supplier personnel, or the like. Supplier may offer proof of adherence to an approved code of conduct or industry certification or otherwise provide information to demonstrate compliance with these terms, for Kyndryl's consideration.
- (v) Inability to comply with obligations. Supplier must notify Kyndryl without undue delay if Supplier can no longer comply with the obligations set by California's privacy law.
- (vi) Stop and Remediation of unauthorized use of personal information. If Supplier fails to comply with any of its obligations under this CCPA/CPRA Addendum and that failure causes an unauthorized use of personal information, or, in general, in any case of unauthorized use of personal information, Kyndryl will have the right to stop the processing of Supplier and correct the failure and remediate the harmful effects of the unauthorized use, with such performance and remediation at Kyndryl's reasonable direction and schedule.
- (vii) Prohibition to mix Personal Information. Supplier is prohibited from combining Kyndryl Personal Data with other personal information received/collected in other contexts. Supplier may not add to Kyndryl Personal Data or include with the Kyndryl Personal Data any other information or data, including any Personal Data, without Kyndryl's prior written consent (by way of example, Supplier is not permitted to use or reuse Kyndryl Personal Data to evaluate the effectiveness of or means of improving Supplier's offerings, for research and development to create new offerings, or to generate reports regarding Supplier's offerings).
- (viii) Third Party Disclosure limitation. Supplier will not retain, use or disclose Kyndryl Personal Data outside of direct business relationship with Kyndryl nor will disclose Kyndryl Personal Data to any third party, unless authorized in advance by Kyndryl in writing.
- (ix) Subcontractors. Without limiting Supplier's obligations or Kyndryl's rights under the transaction document or agreement between the parties with respect to the appointment and retention of subcontractors, Supplier will notify Kyndryl of any engagements with any subcontractor performing work and processing Kyndryl Personal Data for Supplier ("Subprocessor") and will ensure that any Subprocessor has instituted governance controls to comply with the requirements and obligations that this CCPA/CPRA Addendum places on Supplier. Supplier will impose the data protection, security and certification obligations set out in this CCPA/CPRA Addendum on each approved Subprocessor prior to a Subprocessor processing any Kyndryl Personal Data. Supplier is fully liable to Kyndryl for performance of each Subprocessor's obligations.

Article 3

3.1. By continuing to provide Services to Kyndryl without raising any objection by January 1st, 2023, Supplier agrees that the terms of this CCPA/CPRA Addendum apply to the existing contractual relationship between Kyndryl and Supplier as of January 1st, 2023.