

Definitions

Capitalized words have the meanings given below, otherwise within these Terms, or in the Transaction Document or associated base agreement between the parties. The terms “Services” and “Deliverables” are likely defined in the Transaction Document or associated base agreement between the parties; but if they are not, then “Services” means any Hosted Service, consulting, installation, customization, maintenance, support, staff augmentation, business, technical or other work that Supplier performs for Kyndryl, as specified in the Transaction Document, and “Deliverables” means any software programs, platforms, applications or other products or items and their respective related materials that Supplier provides to Kyndryl, as specified in the Transaction Document.

Business Information **Contact (“BCI”)**

means Personal Data that are used to contact, identify or authenticate an individual in a professional or business capacity. Typically, BCI includes an individual’s name, business e-mail address, physical address, telephone number or similar attributes.

Cloud Service means any "as a service" offering that Supplier hosts or manages, including "software as a service", "platform as a service", and "infrastructure as a service" offerings.

Controller means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of Processing Personal Data.

Corporate System means an IT system, platform, application, network, or the like that Kyndryl relies upon for its business, including those located on or accessible through

Kyndryl’s intranet, the Internet, or otherwise.

Customer means a Kyndryl customer.

Data Subject means a natural person who can be identified, directly or indirectly, by reference to a name, identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

Day or Days means calendar days, unless “business” days are designated.

Device means a Kyndryl or Supplier provided workstation, laptop, tablet, smartphone or personal digital assistant.

Handle, Handles or Handling include all access to, use and storage of, and all other handling of Kyndryl Technology.

Hosted Service means any data center service,

application service, IT service, or Cloud Service that Supplier hosts or manages.

Kyndryl Data means any and all electronic files, materials, text, audio, video, images and other data, including Kyndryl Personal Data and non-Personal Data, that Kyndryl, Kyndryl Personnel, a Customer, Customer employee, or any other person or entity, in connection with the Transaction Document, provides to Supplier, uploads to or stores in a Hosted Service, or to which Supplier otherwise has access, and which Supplier is Processing on Kyndryl’s behalf.

Kyndryl Materials means any and all Kyndryl Data and Kyndryl Technology.

Kyndryl Personal Data means the Personal Data which Supplier is Processing on Kyndryl’s behalf. Kyndryl Personal Data include Personal Data that Kyndryl controls and Personal Data that Kyndryl

Processes on behalf of Other Controllers.

Kyndryl Source Code means Source Code that Kyndryl owns or licenses.

Kyndryl Technology means Kyndryl Source Code, other code, description languages, firmware, software, tools, designs, schematics, graphical representations, embedded keys, certificates and other information, materials, assets, documents and technology that Kyndryl has directly or indirectly licensed or otherwise made available to Supplier in connection with the Transaction Document or a related agreement between Kyndryl and Supplier.

Includes and Including, whether capitalized or not, will not be construed as terms of limitation.

Industry Best Practices means practices that are consistent with those recommended or required by the National Institute of Standards and Technology or International Standards Organization, or any other body or organization of similar reputation and sophistication.

IT means information technology.

Other Controller means any entity other than Kyndryl that is a Controller of Kyndryl Data, such as a Kyndryl affiliate, Customer, or a Customer affiliate.

On-Premise Software means software that Kyndryl or a subcontractor runs, installs or operates on Kyndryl's or the subcontractor's servers or systems. For clarity, On-Premise Software is a Supplier Deliverable.

Personal Data means any information relating to a Data Subject and any other information that qualifies as "personal data" or the like under any data protection law.

Personnel means individuals who are employees of Kyndryl or Supplier, agents of Kyndryl or Supplier, independent contractors engaged by Kyndryl or Supplier, or provided to a party by a subcontractor.

Process or Processing means any operation or set of operations performed on Kyndryl Data, including storage, use, access and reading.

Processor means a natural or legal person which Processes Personal Data on a Controller's behalf.

Security Breach means a breach of security leading to the: (a) loss, destruction, alteration, or accidental or unauthorized disclosure of Kyndryl Materials, (b) accidental or unauthorized access to Kyndryl Materials, (c) unlawful Processing of Kyndryl Data or (d) unlawful Handling of Kyndryl Technology.

Sell (or Selling) means selling, renting, releasing, disclosing, disseminating, making available, transferring, or otherwise communicating orally, in writing, or by electronic or other means, data for monetary or other valuable consideration.

Source Code means human readable programming code that developers use to develop or maintain a product, but that is not delivered to end users in the normal course of the product's commercial distribution or use.

Subprocessor means any Supplier subcontractor, including a Supplier affiliate, that Processes Kyndryl Data.