

# STANDARD CONTRACTUAL CLAUSES FOR ICT THIRD-PARTY SERVICE PROVIDER CONTRACTS (DORA)

## CONTRACTUAL ADDENDUM

### CONTRACT DETAILS

<b>Client</b>	[INSERT CLIENT NAME AND ADDRESS]
<b>ICT Third-Party Service Provider</b>	[INSERT ICT THIRD-PARTY SERVICE PROVIDER NAME AND ADDRESS]
<b>Contract</b>	[INSERT NAME AND DATE OF ORIGINAL CONTRACT BETWEEN THE PARTIES]
<b>ICT Services</b>	[PLEASE PROVIDE A SUMMARY DESCRIPTION OF THE ICT SERVICES PROVIDED UNDER THE CONTRACT]
<b>Do the ICT Services support an Important or Critical Function of the Client?</b>	[YES/NO]
<b>Effective Date of this Addendum</b>	[INSERT DATE]

### PURPOSE

The Client and ICT Third-Party Service Provider (together, the "**Parties**") hereby agree that this Addendum (the "**Addendum**") amends the Contract between the Parties by incorporating the clauses in the attached schedule (the "**Schedule**") to ensure compliance with Article 30 (*Key Contractual Provisions*) of the Digital Operational Resilience Act (Regulation (EU) 2022/2554) ("**DORA**").

This Addendum takes effect as of the Effective Date stated above and modifies the Contract accordingly. All other terms and conditions of the Contract remain unchanged. In the event of any conflict or inconsistency between this Addendum and the Contract, the terms of this Addendum shall prevail.

Signed by [**CLIENT NAME**] acting by [NAME OF DIRECTOR]

.....

Director

Signed by [**ICT THIRD-PARTY SERVICE PROVIDER NAME**] acting by [NAME OF DIRECTOR]

.....

Director

## SCHEDULE

### 1. ICT SERVICES DESCRIPTION AND SUBCONTRACTING

#### *ICT Services Description*

- 1.1. A clear and complete description of all functions and ICT Services to be provided by the ICT Third-Party Service Provider under the Contract to the Client is [OPTION 1: contained at [clause [X] OR [schedule [X]] of the Contract OR set out as follows: [PARTIES TO SPECIFY]].<sup>1</sup>

#### *Subcontracting*

- 1.2. A clear and complete description of whether subcontracting of an ICT Service supporting a Critical or Important Function, or material parts thereof, is permitted and, when that is the case, the conditions applying to such subcontracting, are [OPTION 1: contained at [clause [X] OR [schedule [X]] of the Contract OR as follows: [PARTIES TO SPECIFY]].<sup>2</sup>

[THE FOLLOWING LANGUAGE MAY BE DELETED OR AMENDED IF THE ICT THIRD-PARTY SERVICE PROVIDER IS NOT SUBCONTRACTING AN ICT SERVICE SUPPORTING A CRITICAL OR IMPORTANT FUNCTION<sup>3</sup>]:

- 1.3. The ICT Third-Party Service Provider shall not subcontract an ICT Service supporting a Critical or Important Function or material parts thereof without the prior written consent of the Client.
- 1.4. For each ICT Service supporting a Critical or Important Function or material parts thereof eligible for subcontracting:
- 1.4.1. the ICT Third-Party Service Provider:
- (a) is responsible for the provision of the services provided by any subcontractors;
  - (b) is required to monitor all subcontracted ICT Services supporting a Critical or Important Function or material parts thereof to ensure that its contractual obligations with the Client are continuously met;
  - (c) shall assess all risks associated with the location of the current or potential subcontractors providing ICT Services supporting a Critical or Important

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<sup>1</sup> Article 30(2)(a) of DORA, which states that “the contractual arrangements on the use of ICT services shall include at least the following elements: (a) a clear and complete description of all functions and ICT services to be provided by the ICT third-party service provider, indicating whether subcontracting of an ICT service supporting a critical or important function, or material parts thereof, is permitted and, when that is the case, the conditions applying to such subcontracting”.

<sup>2</sup> Article 30(2)(a) of DORA, which states that “the contractual arrangements on the use of ICT services shall include at least the following elements: (a) a clear and complete description of all functions and ICT services to be provided by the ICT third-party service provider, indicating whether subcontracting of an ICT service supporting a critical or important function, or material parts thereof, is permitted and, when that is the case, the conditions applying to such subcontracting”.

<sup>3</sup> The suggested language in clauses 1.3 to 1.11 is based on the draft regulatory technical standards contained in the final report issued by the European Banking Authority, the European Insurance and Occupational Pensions Authority, the European Securities and Markets Authority and the Joint Committee of the European Supervisory Authorities (JC 2024 53) specifying the elements which a financial entity needs to determine and assess when subcontracting ICT services supporting critical or important functions as mandated by Article 30(5) of Regulation (EU) 2022/2554<sup>3</sup> dated 26 July 2024, which can be accessed here: [https://www.eba.europa.eu/sites/default/files/2024-07/f724684d-74c8-4f7d-a467-3df456c73b26/JC%202024-53\\_Final%20report%20DORA%20RTS%20on%20subcontracting.pdf](https://www.eba.europa.eu/sites/default/files/2024-07/f724684d-74c8-4f7d-a467-3df456c73b26/JC%202024-53_Final%20report%20DORA%20RTS%20on%20subcontracting.pdf).

Function or material part thereof, and its parent company and the location where the ICT Service is provided from;

- (d) is required to specify in its written contractual agreement with any subcontractor providing ICT Services supporting a Critical or Important Function or material part thereof the monitoring and reporting obligations of each subcontractor towards the ICT Third-Party Service Provider and, where agreed, towards the Client;
- (e) is required to ensure the continuity of the ICT Services supporting Critical or Important Functions throughout the chain of subcontractors in case of failure by an ICT subcontractor to meet its contractual obligations, and that the written contractual agreement with the subcontractor providing the ICT Services supporting Critical or Important Functions or material parts thereof includes the requirements on business contingency plans as set out under Article 30(3)(c) of DORA (and clause 6.2 of this Addendum) and defines the service levels to be met by the ICT subcontractors in relation to these plans;
- (f) is required to specify in its written contractual agreement with each subcontractor providing ICT Services supporting Critical or Important Functions or material parts thereof the ICT security standards and any additional security requirements, where relevant, that shall be met by each subcontractors in line with Article 30(3)(c) of DORA (and clause 6.2 of this Addendum); and
- (g) shall notify the Client of any material changes to its subcontracting arrangements in accordance with clause 1.10 below.

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