Memorandum

Subject: Assessment of Whether Aspose.Total Constitutes an “ICT Service” Under Regulation (EU) 2022/2554 (DORA)

I. Issue Presented

Whether the licensing arrangement for **Aspose.Total** constitutes an “ICT service” within the meaning of Article 3(21) of Regulation (EU) 2022/2554 (Digital Operational Resilience Act – “DORA”), thereby triggering the ICT third-party risk management and contractual requirements set forth in Chapter V of DORA.

II. Relevant Legal Framework

A. Definition of ICT Services

Article 3(21) of DORA defines “ICT services” as:

> “digital and data services provided through ICT systems to one or more internal or external users on an ongoing basis.”

This definition establishes three cumulative elements:

1. The existence of **digital and data services**
2. Provided **through ICT systems**
3. Delivered **on an ongoing basis**

Recital (35) of DORA clarifies that the definition of ICT services should be understood broadly and that financial entities must assess whether services they rely upon meet this definition.

B. Consequences of Classification

If an arrangement qualifies as an ICT service, Articles 28–30 of DORA require financial entities to:

- Implement ICT third-party risk management frameworks
- Include mandatory contractual provisions
- Maintain oversight and monitoring
- Ensure audit, access, termination, and exit rights

Accordingly, classification materially impacts compliance obligations.

III. Factual Characteristics of the Software Arrangement

The relevant characteristics of **Aspose.Total** are as follows:

1. The agreement grants a **perpetual or fixed-term license to use software**.
2. The software is **installed and operated exclusively on the financial entity's on-premises infrastructure**.
3. The vendor has **no remote access** to the entity's systems.
4. The vendor provides **no hosting services**.
5. The vendor operates **no infrastructure on which the software depends**.
6. The vendor performs **no data processing activities** on behalf of the entity.
7. The software does **not require vendor-operated entitlement validation servers** or cloud connectivity.
8. Any support services are **optional, limited, and separate from the license grant**.
9. There is **no ongoing operational involvement** by the vendor in the functioning of the deployed software.

IV. Legal Analysis

A. Absence of "Digital and Data Services"

DORA applies to the provision of *services*, not merely the grant of intellectual property rights.

The present arrangement consists of a **license to use a software product**, not the ongoing provision of digital or data services by the vendor. After delivery, the software operates entirely within the financial entity's own ICT environment without vendor participation.

The vendor does not:

- Operate infrastructure supporting the software
- Process, host, or access financial entity data
- Provide continuous digital functionality as a managed service

The absence of service activity weighs against classification as an ICT service.

B. No Service Provided “Through ICT Systems” by the Vendor

The definition requires that services be provided “through ICT systems.” Here:

- The relevant ICT systems are owned and controlled exclusively by the financial entity.
- The vendor does not provide access to or operate ICT systems through which the software is delivered post-deployment.
- There is no SaaS model or hosted environment.

The vendor’s role ends at delivery of the licensed software artifact.

C. Lack of “Ongoing Basis” Service Provision

The regulation requires service provision “on an ongoing basis.”

In this case:

- The vendor does not continuously deliver functionality.
- The software does not depend on vendor-managed servers.
- There is no recurring operational service component.
- Optional support is limited and reactive, not continuous service delivery.

A static license grant, without continuous service involvement, does not satisfy the “ongoing basis” requirement.

D. Functional vs. Formal Analysis

Recital (35) indicates that classification depends on substance, not labels.

Accordingly, this assessment considers operational reality:

- No vendor access
- No hosting
- No data processing
- No managed updates
- No operational dependency on vendor infrastructure

Because the financial entity retains full control of deployment, operation, maintenance, and data processing, the arrangement does not create an external ICT service dependency.

V. Conclusion

Based on Article 3(21) and Recital (35) of DORA, and considering the factual characteristics of the arrangement:

Aspose.Total does not constitute an “ICT service” within the meaning of DORA.

The arrangement represents a software license granting usage rights, not the ongoing provision of digital or data services through ICT systems.

Accordingly:

- The vendor should not be classified as an ICT third-party service provider under Chapter V.
- Articles 28–30 contractual requirements do not apply to this arrangement.
- The relationship does not create an ICT third-party risk exposure within the meaning of DORA.

This conclusion should be revisited if the operational model changes (e.g., introduction of remote access, SaaS functionality, telemetry, vendor-managed updates, or hosted components).

VI. Recommended Documentation Controls

For defensibility in supervisory review, the financial entity should maintain:

1. A written technical architecture statement confirming on-prem deployment.
2. Confirmation of absence of vendor remote access.
3. Contract excerpts demonstrating no hosting or data processing.
4. A risk assessment memo documenting this analysis.
5. A change-control trigger requiring reassessment if service features are added.