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A. PARTIES

I. The Service Provider:

New Scaler Limited (Company Number 08187585) incorporated in England and Wales whose address for the service of proceedings is at:

ONE St. Peter's Road, Maidenhead, Berkshire SL6 7QU
(Hereafter the "Service Provider")

II. The Client:

(Hereafter the "Client")

B. Background

The Client has requested that the Service Provider provides certain services to the Client.

The Service Provider is in the business of providing ICT ("Information and Communications Technology") as well as "Digital Transformation" services and solutions, combined with the skills, qualifications and expertise required to provide the required services to the Client.

This Agreement is entered into between the Parties for the supply of Services (please see enclosed Service Document) by the Service Provider to the Client as further detailed and set out in the clause entitled SPECIFICATION OF SERVICES subject to the provisions of this Agreement.

The Service Provider and the Client agreed to be bound by this Agreement in respect of the supply of the Services by the Service Provider to the Client.

The Client acknowledges that it has read this Agreement and understands and agrees to be bound by it.

The Parties have agreed and do hereby agree as follows:

1. INTERPRETATIONS AND DEFINITIONS

Terms and abbreviations used in this Contract have the following meanings:

A. Definitions:

- I.** 'Service Provider' means the Service Provider named at paragraph A., subsection I. above
- II.** 'Client' means the Client named at paragraph A., subsection II. above;
- III.** 'Contract' means this Service contract;

- IV. 'Services' mean the specific services to be provided by the Service Provider as set out in this agreement in the clause titled SPECIFICATION OF SERVICES;
- V. 'Staff' means the Staff of the Service Provider;
- VI. 'Fee(s)' mean the sum to be calculated as set out in the clause titled FEES AND PAYMENTS;
- VII. 'Parties' means the Service Provider and the Client, and 'Party' shall mean either one of them;
- VIII. 'The Specification' means that terms and specifics set out in the clause entitled SPECIFICATION OF SERVICES;
- IX. 'Facilities' means working space, computer equipment, access to the internet and the Client's computer network, telecommunication system etc, and shall include not only access to such resources but also use of them to the extent required by the Service Provider in order to perform the Services in accordance with this Agreement.

B. Interpretations:

- I. Words which import the neuter gender only shall include the masculine and feminine genders; words importing the masculine gender only shared include the feminine gender and vice versa;
- II. Words which import the singular only shall also include the plural and vice versa; where do all move persons are included in the expression "the Client" or "the Service Provider", or any variation thereof, obligations contained within this Agreement which are to be made by the Client or the Service Provider shall be binding jointly and severally on them and their respective representatives and executor's;
- III. Words importing persons include companies and vice versa;
- IV. Reference to any Act of Parliament shall include any modification, re-enactment, amendment or extension thereof for the time of it being in force and shall also include all orders, plans, regulations, directions, permissions, by-laws, and instruments for the time being made, issued or given thereunder or deriving validity therefrom;
- V. Client and Service Provider obligations under this Agreement that require them to refrain from certain actions or things also include obligations not to allow such actions or things or to prevent them from being done by third parties;

- VI.** Any reference to the necessary consent or approval of the Client or Service Provider all words and phrases with similar effect shall mean the consent or approval of the Client or Service Provider in writing executed by or on behalf of the Client or Service Provider.

2. SPECIFICATION OF SERVICES

- A.** The services to be provided are:

Please refer to the Service Definition document for additional information regarding the Offered Services and their specifics.

- B.** The services are to be provided in accordance with the following schedule:

Please refer to the Service Definition document for additional information regarding the Offered Services and their specifics.

3. SERVICE PROVIDER AND SERVICES

- A.** The service provider shall provide the services to the client in coordination for the client paying the fee to the service provider, subject to the provisions of this agreement.
- B.** The Service Provider shall start providing the Services on the commencement date decided by both parties.
- C.** The Service Provider shall complete the Services by the completion date decided by both parties, and in accordance with the schedule and timings decided by both parties.
- D.** The Services shall be performed by such employees or agents that the Service Provider may choose as most appropriate to carry out the Services.
- E.** The Service Provider will provide the client with a report as to how much time has been spent by the Service Provider in providing the Services and at any time on request by the Client.
- F.** There may be one or more Staff members employed by the Service Provider to perform the Services, provided that the Client is satisfied, and they have the necessary skills, qualifications and resources to meet their needs, and that they can do so in a timely manner.
- G.** In the event that additional or substitute Staff is needed to complete the Services, or if the Services are to be subcontracted, the Service Provider may do so at its own expense, as long as the Service Provider informs the Client of the proposed replacement or subcontractor, and the Client is reasonably satisfied that the additional Staff or subcontractor has the requisite qualifications.

- H. For any reason, the Service Provider has the right to substitute Staff for performing the Services, including but not limited to training requirements, sickness, a Staff member's employment termination, or any other reason.
- I. As outlined in clause G. above, the Service Provider is responsible for paying any substitute or subcontractor it uses to perform the Services, and the Service Provider must ensure that any Contract it signs with any such substitute or subcontractor includes obligations that are equivalent to those the Service Provider has under the terms of this Contract and to the worker.
- J. If the Service Provider is unable to provide the Services for any reason, the Service Provider shall notify the Client on the first day of unavailability and shall, in such case, provide a substitute subject to the provisions of clause G. This option is available in the event a substitute is unavailable for any reason.
- K. Due to the specialised nature of the work, it may take a considerable amount of time for staff to become familiar with it. In the event that the Service Provider provides substitute or additional Staff or subcontracts the performance of all or a portion of the Services, the Service Provider shall, whenever possible and at its own expense, provide an overlap period for such substitute or additional Staff or subcontractor.
- L. The Client acknowledges and accepts, unless otherwise stated in this Contract, that the Service Provider is in business for its own account and shall be permitted to seek, apply for, accept, and perform contracts to supply its Services to any third party during the term of this Contract, provided that this in no way compromises or detracts from the performance of the Services.

4. THE CONTRACT

- A. This Contract governs the performance of the Services by the Service Provider for the Client and is between the Client and the Service Provider.
- B. The Service Provider shall not be required to provide any services, advice, or assistance in addition to the Services, and any requests for such additional advice and assistance shall be subject to the Service Provider's prior approval and agreement between the Service Provider and the Client regarding the level of fees payable for such additional advice and assistance. In the event that such additional advice and assistance is agreed upon, the Service Provider is obligated to notify the Client of the terms under which these services will be provided, as well as any new fee arrangements.
- C. No variation or amendment of these terms shall be valid unless approved in writing by both the Client and the Service Provider, except where changes to the Services are required to comply with applicable safety and other statutory requirements, in which case the Service Provider may make such changes without notifying the Client in advance.

- D. The Service Provider cannot be held responsible for failure of any third party systems, including Client data is lost.
- E. In the event that a third-party system contracted by the Service Provider in the course of providing the Services is unavailable, the Service Provider will seek a resolution with the third-party and communicate this resolution to the Client's primary point of contact.

5. THE SERVICE DESCRIPTION

- A. The Service Description document is enclosed with this Contract.
- B. Should the Service Provider amend the contents of the enclosed Service Description, then the new amended version will be provided to the client within 28 days of the amendment.
- C. Should the Services to be provided to the Client, be varied, then the Service Provider will provide a new version of this Contract and Service Description, subject to clause 4.C. above.

6. SERVICE PROVIDER'S OBLIGATIONS

- A. The Service Provider will make certain that all employees have the required DBS clearance, which is renewed every three years. There will be DBS-identified photo badges for all Service Provider staff, if requested by the Client in writing.
- B. In accordance with the terms of this contract, the Service Provider agrees to the following on behalf of itself, its employees, and any substitutes or subcontractors: -
- C. To refrain from engaging in any conduct that is detrimental to the Client's interests, including any conduct that may bring the Client into disrepute.
- D. It is the responsibility of the Service Provider and/or its Staff members and any substitutes or sub-contractors to abide by any statutory rules or regulations, including but not limited to those related to health and safety. Service Provider must ensure that all of their personnel (including sub-contractors) adhere to the Client's health and safety policy, security arrangements, or fire drill during the performance of the Services (for example, if the Services are being performed on Client premises). As long as the Client has specified that the Service Provider, its Staff, and any substitutes and sub-contractors must adhere to the rules and regulations, the Service Provider and its Staff, and any substitutes and sub-contractors shall not be bound by the policies and procedures that an employee of Client would be bound by.
- E. To notify the Client in writing immediately if they become bankrupt.

- F. It is the responsibility of both parties to maintain public liability insurance coverage of at least £5,000,000.

7. METHODS OF PERFORMING SERVICES

- A. The Staff of the Service Provider are trained professionals who will use their own initiative in delivering the Services, provided that the Service Provider cooperates with the Client.
- B. The Service Provider may provide the Services at the times and on the days it chooses, but must ensure that the Services are provided at the times required for the proper performance of the Services.
- C. This Contract shall not be construed as constituting or establishing a partnership, joint venture, or employer-employee relationship between the parties or their respective personnel.

8. LOCATION

The Service Provider shall provide the Services in such places and locations as the Service Provider considers appropriate to the type and nature of the requirements of the Client.

9. FEES AND PAYMENTS

- A. The Service Provider's 'Fee' for the duration of this Agreement will be £ plus VAT.
- B. Late Payments legislation¹ allows the Services Provider to impose statutory interest and one fixed cost on the Client if the Client fails to pay any invoice sum due within 14 days.
- C. Any additional services will be provided at rates to be agreed between both parties, subject to clause 4.C. above.
- D. The Service Provider shall be entitled to invoice the Client at the following intervals: Please refer to the Price rate document for additional payment and billing information.
- E. The payment of the Fees shall be made by the Client to the Service Provider within the following period on receipt of invoice:

Please refer to the price rate document for additional payment and billing information.

¹ Late Payment of Commercial Debts (Interest) Act 1998, the Late Payment of Commercial Debts Regulations 2002 and the Late Payment of Commercial Debt regulations 2013 and any subsequent amendments to that legislation.

- F.** The Service Provider is permitted to charge for all reasonable and necessary costs and expenses incurred in performing the services, including but not limited to travelling, photocopying, courier services and postage, subject to agreement from the Client.
- G.** All amounts stated are exclusive of VAT and any other applicable taxes unless expressly stated otherwise.
- H.** If the Client does not make a payment by the date stated in an invoice or as otherwise provided for in the Agreement, the Service Provider shall be entitled to:
 - a.** charge interest on the outstanding amount at the rate of 4% per year above the Bank of England base rate accruing daily;
 - b.** require the Client to pay, in advance, for any Services (or any part of the Services) which have not yet been performed;
 - c.** not perform any further Services (or any part of the Services).

10. TERMINATION

- A.** Where Services are purchased under the CCS G-Cloud Framework, the Parties agree that the Call-Off Contract and Order Form apply, together with the Supplier's Application. In the event of any conflict, the Call-Off Contract and Order Form take precedence over these Supplier Terms.
- B.** Either Party may terminate a Call-Off Contract only in accordance with the termination provisions set out in the Call-Off Contract.
- C.** On termination (for any reason), the Buyer will pay only for Services properly performed and accepted up to the termination date (and any undisputed Charges accrued to that date). No early termination fees, minimum term charges, or "remaining term" charges apply unless expressly stated in the Call-Off Contract.

11. CLIENT'S OBLIGATIONS

- A.** During performance of the Services the Client undertakes to:
 - I.** Pay the Fees and any other costs herein stipulated at the times and in the manner aforesaid and without any retention, deduction or set-off save as so permitted under this Agreement;
 - II.** Co-operate with the Service Provider as the Service Provider reasonably requires;
 - III.** Provide the information and documentation that the Service Provider reasonably requires; www.newscaler.com
 - IV.** Ensure that the Client's staff and agents co-operate with and assist the Service Provider.

12. OWNERSHIP AND INTELLECTUAL PROPERTY

- A.** In connection with the provision of the Services the Service Provider may generate, create, write, or produce reports, advice, analyses, designs, methodologies, code or any other output (hereafter defined as 'Output') as required in accordance with this Agreement.
- B.** Unless otherwise agreed by the Parties, any copyright and database right (and any other intellectual property rights) in the Services and/or any Output (or any other material created or prepared) created and provided to the Client by the Service Provider in accordance with, and specifically for the purposes of, this Agreement shall belong to the Client.
- C.** Any copyright and database right (and any other intellectual property rights) in any other materials ('Ancillary Materials') provided to the Client, which were not created pursuant to this Agreement, or which are specified to belong to the Service Provider, shall belong to the Service Provider.

13. CONFIDENTIALITY

- A.** Each Party (Receiving Party) shall keep the confidential information of the other Party (Supplying Party) confidential and secret. whether disclosed to or received by the Receiving Party. The Receiving Party shall only use the confidential information of the supplying Party for the purpose of performing the Receiving Party's obligations under the Agreement. The Receiving Party shall inform its officers, employees and agents of the Receiving Party's obligations under the provisions of this clause, and ensure that the Receiving Party's officers, employees and agents meet the obligations.
- B.** 'Confidential Information' means all information relating to the supplying Party which might fairly be considered to be of a confidential nature and includes, but is not limited to
 - I.** information of whatever nature, without limitation, which is obtained in any form by the Receiving Party from the Supplying Party or its advisers, or by observations during visits, or by demonstrations;
 - II.** information of whatever nature relating to the business activities, practices and finances of the Supplying Party;
 - III.** any evaluation material, design work, strategic plans and ideas, innovations, creative plans, concepts and ideas and any other plans or ideas developed by the Supplying Party or on its behalf whether relating specifically to the Services or otherwise;
 - IV.** any information derived from the information falling within (i), (ii) or (iii) above;

- V. any copy of any of the foregoing; and
- VI. the fact that discussions are taking place between the Parties to this Agreement. but does not include information which is:
 - I. publicly available, other than as a result of this Agreement; or
 - II. lawfully available from a third party free from any confidentiality restriction; or
 - III. provided by the Supplying Party and marked 'Non-Confidential'; or
 - IV. required by law or regulation to be disclosed, but to the absolute minimum necessary and provided that the Supplying Party is first consulted to establish whether and if so how far it is possible to prevent or restrict such enforced disclosure.
- C. If there is any doubt as to whether any particular information constitutes Confidential Information written confirmation is to be obtained from the Supplying Party.
- D. The obligation in this clause shall not apply to any information which:
 - I. was known or in the possession of the Receiving Party before it was provided to the Receiving Party by the Supplying Party.
 - II. is, or becomes, publicly available through no fault of the Receiving Party;
 - III. is provided to the Receiving Party without restriction or disclosure by a third party, who did not breach any confidentiality obligations by making such disclosure;
 - IV. was developed by the Receiving Party (or on its behalf) who had no direct access to, or use or knowledge of the confidential information supplied by the Supplying Party; or
 - V. is required to be disclosed border of a court of competent jurisdiction
- E. This clause shall survive termination of this Agreement.

14. COMPETITION

The Parties (and/or their employees, agents, representatives) shall be free to provide services or engage in any form of activity (including, but not limited to, any business, investment, or financial activities) whether for themselves or on behalf of or to other organisations, companies or individuals who are or are potentially direct or indirect competitors of the other Party.

15. SUB-CONTRACTORS

- A.** A. The Service Provider is permitted to use sub-contractors to provide some or all of the Services, subject to obtaining the approval of the Client to use particular intended sub-contractor.
- B.** The service Provider shall be responsible for the work of a sub-contractor whose work shall be undertaken to the same standard as required by this Agreement. However, the Parties acknowledge and agree that some sub-contractors have their own terms and conditions on which they trade, and which are more restrictive than the provisions in this Agreement. For example, without limiting the generality of the foregoing, a sub-contractor may have more restrictive wording as to the standard it will meet in work it performs (as to timing or quality), what is to happen if that standard is not met, and the restriction and exclusion of liability Where the terms and conditions of a sub-contractor are more restrictive or exclusory than the provisions of this Agreement. the Parties agree that work provided by a sub-contractor will be governed by the terms and conditions of the sub-contractor rather than the provisions of this Agreement.

16. WARRANTIES AND LIABILITY

- A.** The service Provider warrants that it will use reasonable care and skill in performing the services.
- B.** No Party shall be liable to the other for any loss of profit, market, business, contract, damage to goodwill, loss of projected or anticipated savings, loss of revenue or any other consequential or indirect loss howsoever caused.
- C.** Nothing in this Agreement shall limit or exclude the liability of either Party
 - I.** for death or personal injury caused as a result of its negligence;
 - II.** for fraud or fraudulent misrepresentation;
 - III.** for loss or damage to property caused any negligent act;
 - IV.** for any and all other matters where it is illegal to exclude or limit liability.
- D.** Where this Agreement is breached by the Client or the Client is negligent in any way of the undertakings and obligations placed upon them under this Agreement or commits a breach of any statutory duty which results in a loss incurred by the Service Provider, the Service Provider may claim damages from the Client for the losses Incurred.
- E.** Except in the case of death or personal injury caused by the Service Provider's negligence, the liability of the Service Provider under or in connection with this

Agreement shall not exceed the Fee paid by the Client to the Service Provider under this Agreement.

17. TIME FOR PERFORMANCE

Notwithstanding any provision to the contrary, any dates, periods or times specified by the Service Provider in the Agreement are estimates only and time shall not be of the essence for the performance by the Service Provider of its obligations under the Agreement

18. TERMINATION

- A.** Without prejudice to the other remedies or rights a Party may have, this Agreement may be terminated:
- I.** with immediate effect by either Party serving written notice If the other Party commits any material breach of any term of these Conditions and which (in the case of a breach capable of being remedied) shall not have been remedied within twenty-one (21) days of a written request to remedy the same;
 - II.** at any time after the Minimum Period as set out in the Agreement by either Party upon Service of thirty DAYS' (30 days') notice in writing to the other;
 - III.** with immediate effect by the Service Provider providing written notice if the Client fails to make payment of any sums within 14 days of such sums falling due;
 - IV.** with immediate effect by the Client serving written notice to the Service Provider if:
 - a.** the Client has a reasonably held belief that the Service Provider is unable to pay its debts; or
 - b.** the Service Provider has obtained a moratorium under Part A1 of the Insolvency Act 1986; or
 - c.** the Service Provider becomes the subject of a Company Voluntary Arrangement under the Insolvency Act 1986; or
 - d.** the Service Provider becomes the subject of a scheme of arrangement under Part 26 of the Companies Act 2006; or
 - e.** the Service Provider becomes the subject of a restructuring plan under Part 26 A of the Companies Act 2006.
 - V.** by the mutual agreement of both parties where;

- f. the Client has obtained a moratorium under Part AI of the Insolvency Act 1986; or
 - g. the Client becomes the subject of a Company Voluntary Arrangement under the Insolvency Act 1986; or
 - h. the Client becomes the subject of a restructuring plan under Part 26 A of the Companies Act 2006.
- VI.** where an administrator administrative receiver, liquidator, or provisional liquidator has been appointed on behalf of the Client and such an appointed representative agrees to the termination.
- VII.** with immediate effect by the service Provider proving written notice to the Client in the event that the Client or its employees or agents shall engage In any conduct prejudicial to the business of the Service Provider or in the event that the service Provider considers that a conflict or potential conflict of interest has arisen between the Parties.
- B.** on termination of this Agreement, the Client shall pay for all services provided up to the date of termination, and for all expenditure falling due for payment after the date of termination from commitments reasonably and necessarily incurred by the Service Provider for the performance of the Services prior to the date of termination.
- C.** Any termination of the Agreement pursuant to this clause shall be without prejudice to any other rights or remedies a party may be entitled to under the Agreement or at law and shall not affect any accrued rights or liabilities of either Party nor the coming into or continuance in force of any provision which is expressly or by implication intended to come into or continue in force on or after such termination.

19. GENERAL

A. Force majeure

Neither Party shall have any liability under or be deemed to be in breach of this Agreement for any delays or failures in performance of this Agreement which result from circumstances beyond the reasonable control of that Party. The Party affected by such circumstances shall promptly notify the other Party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than 6 months, either Party may terminate this Agreement by written notice to the other Party.

B. Amendments

This Agreement may only be amended in writing signed by duly authorised representatives of the Parties.

C. Assignment

Subject to the following sentence, neither Party may assign, delegate, sub-contract, mortgage, charge or otherwise transfer any or all of its rights and obligations under this Agreement without the prior written agreement of the other Party. A Party may, however, assign and transfer all its rights and obligations under this Agreement to any person to which it transfers all of its business, provided that the assignee undertakes in writing to the other Party to be bound by the obligations of the assignor under this Agreement.

D. Entire Agreement

This Agreement contains the whole agreement between the Parties in respect of the provision of the specified services and supersedes and replaces any prior written or oral agreements, representations, or understandings between them relating to such subject matter. The Parties confirm that they have not entered into this Agreement on the basis of any representation that is not expressly incorporated into this Agreement. Nothing in this Agreement excludes liability for fraud.

E. Waiver

No failure or delay by the service Provider in exercising any right, power or privilege under this Agreement shall impair the same or operate as a waiver of the same nor shall any single or partial exercise of any right, power or privilege preclude any further exercise of the same or the exercise of any other right, power, or privilege. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights and remedies provided by law.

F. Agency, partnership etc.

This Agreement shall not constitute or imply any partnership, Joint venture, agency, fiduciary relationship, or other relationship between the Parties other than the contractual relationship expressly provided for in this Agreement. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.

G. Further assurance

Each Party to this Agreement shall at the request and expense of the other execute and do any deeds and other things reasonably necessary to carry out the provisions of this Agreement or to make it easier to enforce

H. Announcements

No Party shall issue or make any public announcement or disclose any information regarding this Agreement unless prior to such public announcement or disclosure it furnishes the other Party with a copy of such announcement or information and obtains the approval of the other Party to its terms. However, no Party shall be prohibited from issuing or making any such public announcement or disclosing such information if it is necessary to do so to comply with any applicable law or the regulations of a recognised stock exchange.

I. Notices

- I. Any notice to be given under this Agreement shall be in writing and shall be sent by e-mail to the address of the relevant Party set out at the head of this Agreement, or to the relevant email address of the contact person in charge at the time for the said project, or such email address as that Party may from time to time notify to the other Party in accordance with this clause.
- II. Notices sent as above shall be deemed to have received the next working day after sending an email and no other form of receiving notices will be accepted.
- III. In proving the giving of a notice, it shall be sufficient to prove that the notice was left, all that the applicable means of telecommunication was addressed and dispatch of the email was confirmed and/or acknowledged as the case may be.

20. DATA PROTECTION

- A. Each Party shall comply with applicable Data Protection Legislation, including the UK GDPR and the Data Protection Act 2018 (and any successor or related legislation).
- B. Where the Supplier processes Personal Data on behalf of the Buyer in delivering the Services, the Parties agree that (unless otherwise stated in the Call-Off Contract) the Buyer is the Controller and the Supplier is the Processor.
- C. The Supplier shall:
 - i. process Personal Data only on documented instructions from the Buyer (including as set out in the Call-Off Contract);
 - ii. ensure persons authorised to process Personal Data are bound by confidentiality;
 - iii. implement appropriate technical and organisational security measures;
 - iv. notify the Buyer without undue delay upon becoming aware of a Personal Data Breach relating to the Services and provide reasonable information.

22. LAW AND JURISDICTION

The validity, construction and performance of this Agreement shall be governed by the laws of England and Wales and shall be subject to the exclusive jurisdiction of the courts of England and Wales to which the Parties submit

23. THIRD PARTIES

For the purposes of the Agreements (Rights of Third Parties) Act 1999 and notwithstanding any other provision of this Agreement this Agreement is not intended to and does not. give any person who Is not a Party to it any right to enforce any of its provisions.

SIGNED by the Parties:

Signed by _____ for and on
Behalf of **NEW SCALER LIMITED**

Date

Signed by _____ for and on
Behalf of _____