**Terms of Service**

**SERVICES AGREEMENT**

This **SERVICES AGREEMENT**(“Agreement”) contains the terms and conditions which governs the relationship between Raya Data Center (the “Provider”) and You or the entity you represent (hereinafter the “Customer”) with respect to Customer’s rights of access to the hosted data center and selected other IT services, the scope of which is further described herein.   Provider and Customer may each be referred to herein as a “Party” or collectively as the “Parties”.

1. Scope of Services/Initial Term
   1. General Scope. Subject to Customer’s payment of all applicable fees, Provider agrees to provide to Customer, and Customer agrees to receive from Provider, the hosted ‘cloud’ Services subject to the terms and conditions herein.
   2. Initial and Renewal Term. The initial term of this Agreement commences on the date indicated in the applicable Order Form. Subject to Customer’s payment of the renewal and other fees, this Agreement shall renew for successive period as expressly set forth in the applicable Order Form, subject to Provider’s termination rights set forth herein.  The initial term and any renewal terms may collectively be referred to herein as the “Term”.

1. End User License Agreement.  Customer hereby agrees to and accepts the terms of the End User License Agreement and Terms of Use (“EULA”), which governs the Customer’s use of the Provider’s, Sites and Portals (“the Provider’s, Sites and Portals”), through which the Services may be accessed.

1. Acceptance of Terms & Use by Customer Affiliates. The terms and conditions of this Agreement shall extend to each Customer approved franchisee, licensee, subcontractor or affiliated entity (“Customer Affiliates”) that Customer desires to have rights to access, use or receive the Services. Each Customer Affiliate that desires to use the Services will follow the same terms and conditions.

1. Payment Terms
   1. **Taxes.** All orders are subject to any applicable government taxes, tariffs, duties, shipping and handling charges, and any fees or charges imposed or assessed by reason of this Agreement shall be paid by Customer.
   2. **Third Party Charges.** Customer is responsible for any third party charges including, but not limited to, telephone, cell phone, or internet charges or similar or associated charges in connection with Customer’s access and use of the Services.

1. Suspension Right
   1. Provider may Suspend the provisioned service upon the occurrence of any of the following:
      1. Customer’s failure to make timely payment of any applicable fees provided that Customer will have (5) days period to cure a payment default.
2. Termination Rights.
   1. Provider may terminate this Agreement upon the occurrence of any of the following:
      1. Immediately, upon Customer’s breach of any of the terms of the EULA.
      2. Customer’s breach of any other term or condition of this Agreement and provided further that Customer has not cured such breach following receipt of notice.
   2. **Consequences of Termination**: Upon expiration or termination of the Agreement for any reason, Customer acknowledges and agrees that
      1. All outstanding fees shall immediately become due and payable.
      2. Customer’s right to use the Services shall immediately cease and terminate.
      3. Customer shall not be entitled to a refund or offset of any amounts owed or paid to Provider.
      4. Customer shall cease using all Provider Confidential Information and shall destroy all copies then in its possession.
      5. In case no Liabilities on “Customer” side and in accordance with this agreement, Raya Data Center will support the customer during the post-termination period (2 weeks) to retrieve and export files of his content and his applications.
      6. Customer shall not be entitled to refund or offset of any amounts owed or paid to Provider. Except in case of services deficiency which couldn’t be corrected by Raya Data Center. Raya Data Center will refund to the customer the fees for the terminated services that the customer pre-paid for the period following the effective date of termination
3. Confidential Information
   1. **Definition.** “Confidential Information” shall mean all proprietary or non-public information disclosed by one Party hereunder (the “Disclosing Party”) to the other Party (the “Receiving Party”). Without limiting the foregoing, Confidential Information includes technical information, materials, records, data, reports, business and financial information, personnel data, programs, documentation, diagrams, ideas, concepts, techniques, processes, inventions, patents, copyrights and trade secrets, whether in tangible or intangible form, whether or not marked or otherwise identified as confidential. With respect to Provider, Confidential Information shall include all proprietary information of its licensors and affiliated entities, including the Services, and documentation relating thereto. The terms and conditions of this Agreement shall also constitute Confidential Information.
   2. **Obligation**. Each Party (the “Receiving Party”) shall strictly maintain and not disclose any Confidential Information received from the other Party (the “Disclosing Party”) in connection with this Agreement. The Receiving Party shall not use any Confidential Information of the Disclosing Party for any purpose except as expressly permitted in this Agreement. The Receiving Party shall use the same care to prevent disclosure of Confidential Information to third parties as it employs to avoid disclosure of its own confidential information of a similar nature, but in no event less than a reasonable standard of care. The Receiving Party shall not acquire any express or implied right or license with respect to Confidential Information disclosed under this Agreement.
   3. **Return of Confidential Information.** Upon any termination of this Agreement or a request by the Disclosing Party, the Receiving Party shall, at the instruction of the Disclosing Party, immediately return, delete or destroy all Confidential Information of the Disclosing Party, including all copies or materials referring or relating to such Confidential Information, then in the Receiving Party’s possession or the possession of any third party who received such information from the Receiving Party.
   4. **Notwithstanding the foregoing**, the Receiving Party may disclose the Disclosing Party Confidential Information to Receiving Party’s employees, agents, advisors and subcontractors who have a bona fide need to know such Confidential Information in order to perform assigned duties in fulfillment of obligations under this Agreement. The Receiving Party assumes full responsibility for the acts or omissions of its subcontractors and employees with respect to Confidential Information.
      1. Confidential Information shall not include information which:
         1. is known to the Customer at the time of disclosure, free of any obligation to keep it confidential;
         2. is or becomes publicly available through authorized disclosure;
         3. is independently developed by the Receiving Party without reference to or use of any Confidential Information of the Disclosing Party; or
         4. The Receiving Party rightfully obtains from a third party who has the right to transfer or disclose it.

1. Proprietary Rights.
   1. Customer acknowledges and agrees that the Services (inclusive of any owned or licensed software used to provide or support the delivery of the Services) are proprietary to Provider and are protected under Egyptian and international intellectual property laws.  Customer only acquires a limited right to use the Services on a revocable, non-exclusive basis, subject to the terms and conditions herein, and no ownership or license rights are hereby granted to Customer or any Customer Affiliates. All rights not expressly granted herein are hereby reserved to Provider.
   2. The Services, including any underlying software, trade secrets and other trademarks or service marks of Provider are protected under the patent, copyright, trademark, trade secret laws of Egypt as well as international treaty provisions. Provider and its third party licensors, if any, retain all title to and all rights and interest in (1) the Services and underlying software, including, but not limited to, all copies, versions, customizations, compilations and derivative works thereof (by whomever produced) and all related documentation; (2) the trademarks, service marks, trade names, icons and logos; (3) any and all copyright rights, patent rights, trade secret rights and other intellectual property and proprietary rights throughout the world in the foregoing; and (4) all Provider Confidential Information (as defined herein). Customer acknowledges that its possession, installation, or use of the Services does not transfer to Customer any ownership, title, or registrable interest of any kind to the intellectual property in the Services, and that Customer will not acquire any rights to the Services except as expressly set forth herein.  Customer agrees that it will not misappropriate or misuse any Provider intellectual property to which Customer has access.

1. Representations and Warranties. Customer and Customer Affiliates make the following representations and warranties:

a. That each is an entity that is duly organized and validly existing under the laws of the jurisdiction of its incorporation and principal place of business, and that each has all requisite power and authority to execute, deliver and perform all of its obligations under this Agreement,

b. That such Party’s entry into this Agreement constitutes a legal, valid and binding obligation which is enforceable against such Party in accordance with the terms and conditions hereof.

c. That such Party’s performance of its obligations will not, with or without giving of notice, the lapse of time, or both, conflict with or violate (1) any provision of law, rule or regulation, (2) any order, judgment, decree, or (3) any third party agreement to which Customer or Customer Affiliate is a party.

d. That there is no pending or, to the best of its knowledge, threatened claim, action, or proceeding against Customer or a Customer Affiliate with respect to the performance of the      obligations under this Agreement, and there is no basis for any such claim, action, or proceeding.

1. Disclaimer.
   1. General Disclaimer. to the maximum extent permitted by applicable law, provider disclaims all warranties and conditions, either express, implied, or statutory, including but not limited to: any implied warranties or conditions of merchantability or of fitness for a particular purpose; any warranty or condition of title, quiet enjoyment, quiet possession, correspondence to description, lack of viruses, lack of accuracy or completeness of responses, or results; any warranty of non-infringement, and lack of negligence or lack of workmanlike effort, all with regard to the services or the use of the provider systems.
   2. Data Disclaimer.
2. Customer and customer affiliates are each solely responsible for complying with applicable laws pertaining to the use and disclosure of any data.

1. Savings Clause. Notwithstanding anything to the foregoing contained herein, an Order Form or other exhibit or attachment to this Agreement, Provider shall not be liable for any delay or failure to perform any Services or to fulfill its obligations to the extent such delay or failure was due to the acts or omissions of Customer (or Customer Affiliates, or as a result of a force majeure event.

1. Indemnification. Customer and Customer Affiliates each agree to indemnify and hold harmless Provider and its directors, officers, employees, affiliates, sub-licensees, and agents from and against all third party claims filed or threatened against Provider and shall pay all defense costs (including reasonable expert and attorneys’ fees, court costs), judgments, damages and other expenses arising out of or on account of any negligent act, omission, or willful misconduct by Customer in respect of the following:
   1. Any failure by Customer or Customer Affiliates to comply with the obligations, representations and warranties under this Agreement;
   2. Customer’s or Customer Affiliates’ (inclusive of such entity’s end users, employees, contractors, and shareholders) misappropriation, misuse or unauthorized use of any Confidential Information of Provider or misuse of the Software in violation of the EULA;
   3. Any failure by Customer or Customer Affiliates to comply with applicable laws and regulations, including, without limitation, data privacy laws, or for any claims of personal injury or property damage
   4. Any claim of personal injury or property damage relating to a Customer or Customer Affiliates.

1. Audit: Raya Data Center may audit the customer use of the Services (e.g., through use of software tools) to assess whether the customer use of the Services is in accordance with the order. The customer will agree to cooperate with Raya Data Center’s audit and provide reasonable assistance and access to information. Any such audit shall not unreasonably interfere with the customer normal business operations.

1. Governing Law/Dispute Resolution.
   1. This Agreement shall be governed and construed in accordance with the laws of Egypt. The exclusive venue for the litigation of disputes hereunder shall be the national located in Cairo, Egypt.
   2. Notwithstanding the foregoing, nothing in this Agreement will prevent Provider from applying to any court of competent jurisdiction for injunctive relief.
   3. The prevailing Party in any action hereunder shall be entitled to recover its reasonable attorneys’ fees, costs, and other expenses.

1. Force Majeure. Provider will not be liable in any amount for failure to perform any obligations under this Agreement if such failure is caused by Internet outages, failures of public communications networks, earthquakes, communications outages, fire, flood, electrical outages, war, an act of God, or the occurrence of any other contingency beyond the reasonable control of Provider.

1. Severability. If any provision of this Agreement is held to be unenforceable, the enforceability of the remaining provisions shall in no way be affected or impaired thereby.

1. Independent Contractors. Provider and Customer (inclusive of any Customer Affiliates) are independent contractors in all actions contemplated by this Agreement. This Agreement shall not be construed to create any partnership, joint venture or agency.

1. Entire Agreement/Governing Language. This Agreement including any exhibits or other attachments hereto, constitutes the entire agreement between the Parties with respect to the subject matter hereof. This Agreement expressly supersedes and completely replaces any and all prior agreements or understandings, whether written or oral. The controlling language of this Agreement is English.

1. Headings/Counterparts. Headings are for reference purposes only. This Agreement may be executed in duplicate counterparts. Each such counterpart, if executed by both Parties, shall be an original and both such counterparts together shall constitute but one and the same document.

1. Order of Priority.  In the event of any conflict or ambiguity between the terms of this Agreement and any Order Form, EULA, Exhibit, statement of work or other document attached hereto, the following hierarchy shall prevails:
   1. The provisions of this Agreement shall control over any conflicting or ambiguous provision in the EULA, Order Form, Exhibit, or other document attached hereto,
   2. The provisions of the EULA shall control over any conflicting or ambiguous statement in the Order From, Exhibit or other document,
   3. The provisions of an Order Form shall control over any conflicting or ambiguous statement in a Exhibit, or other document,

1. Survival. The following provisions shall survive the termination or expiration of this Agreement: In witness whereof, the parties have executed this agreement as of date set forth in the order form (the “effective date”).