

## **MagicAnt, Inc. Terms of Service**

**Last Updated: [18 September, 2018]**

Please read these Terms of Service (the “**Terms**”) and our Privacy Policy available at [http://www.magicant.co.jp/privacy\\_policy.pdf](http://www.magicant.co.jp/privacy_policy.pdf) carefully because they govern your use of MagicAnt’s (“our”, “we”, or “MagicAnt”) website at <http://www.magicant.co.jp> (the “**Site**”) and services accessible via our mobile applications (each an “**App**”, collectively “**Apps**”). To make these Terms easier to read, our Site and the Apps are collectively called the “**Services**.” “**Content**” means text, graphics, images, music, software, audio, video, works of authorship of any kind, and information or other materials that are posted, generated, provided or otherwise made available through the Services.

### **Agreement to Terms**

By using our Services, you agree to be bound by these Terms and by our Privacy Policy. If you don’t agree to these Terms and our Privacy Policy, do not use the Services.

### **Who May Use the Services**

**Eligibility** – You may use the Services only if you are 16 years or older and are not barred from using the Services under applicable law.

If you are under the age of 18, or under the age of majority where you live, you represent that your legal guardian has reviewed and agreed to these Terms.

### **Privacy Policy**

Please refer to our Privacy Policy available at [http://www.magicant.co.jp/privacy\\_policy.pdf](http://www.magicant.co.jp/privacy_policy.pdf) for information on how we collect, use and disclose information from you, your computer and your mobile device. You understand that through your use of our Services you acknowledge the collection, use and sharing of this information as described in our Privacy Policy. If you don’t agree with the Privacy Policy, then you must stop using our Services.

### **Rights and Terms for Apps**

**Rights in App Granted by Us.** Subject to your compliance with these Terms, we grant you a limited, non-exclusive, non-transferable, non-sublicenseable license to download and install a copy of the App on a mobile device that you own or control and to run such copy of the App solely for your own personal non-commercial purposes. You may not copy the App, except for making a reasonable number of copies for backup or archival purposes. Except as expressly permitted in these Terms, you may not: (i) copy, modify or create derivative works based on the App; (ii) distribute, transfer, sublicense, lease, lend or rent the App to any third party; (iii) reverse engineer, decompile or disassemble the App; or (iv) make the functionality of the App available to multiple users through any means. We reserve all rights in and to the App not expressly granted to you under these Terms.

## General Prohibitions and Our Enforcement Rights

You agree not to do any of the following:

- Post, upload, publish, submit or transmit any material that: (i) infringes, misappropriates or violates a third party's patent, copyright, trademark, trade secret, moral rights or other intellectual property rights, or rights of publicity or privacy; (ii) violates, or encourages any conduct that would violate, any applicable law or regulation or would give rise to civil liability; (iii) is fraudulent, false, misleading or deceptive; (iv) is defamatory, obscene, pornographic, vulgar or offensive; (v) promotes discrimination, bigotry, racism, hatred, harassment or harm against any individual or group; (vi) is violent or threatening or promotes violence or actions that are threatening to any person or entity; or (vii) promotes illegal or harmful activities or substances.
- Use, display, mirror or frame the Services or the Content or any individual element within the Services, our name, any of our trademarks, logo or other proprietary information, or the layout and design of any page or form contained on a page, without our express written consent;
- Access, tamper with, or use non-public areas of the Services, our computer systems, or the technical delivery systems of our providers;
- Attempt to probe, scan or test the vulnerability of any of our systems or networks or breach any security or authentication measures;
- Avoid, bypass, remove, deactivate, impair, descramble or otherwise circumvent any technological measure implemented by us or any of our providers or any other third party (including another user) to protect the Services;
- Attempt to access or search the Services through the use of any engine, software, tool, agent, device or mechanism (including spiders, robots, crawlers, data mining tools or the like) other than the software and/or search agents provided by us or other generally available third-party web browsers;
- Send any unsolicited or unauthorized advertising, promotional materials, email, junk mail, spam, chain letters or other form of solicitation;
- Use any meta tags or other hidden text or metadata utilizing our trademark, logo URL or product name without our express written consent;
- Use the Services, or any portion thereof, for any commercial purpose or for the benefit of any third party or in any manner not permitted by these Terms;
- Attempt to decipher, decompile, disassemble or reverse engineer any of the software used to provide the Services;
- Interfere with, or attempt to interfere with, the access of any user, host or network, including, without limitation, sending a virus, overloading, flooding, spamming, or mail-bombing the Services;
- Collect or store any personally identifiable information from the Services from other users of the Services without their express permission;
- Impersonate or misrepresent your affiliation with any person or entity
- Violate any applicable law or regulation; or
- Encourage or enable any other individual to do any of the foregoing.

Although we're not obligated to monitor access to or use of the Services, we have the right to do so for the purpose of operating the Services, to ensure compliance with these Terms, and to comply with applicable law or other legal requirements. We reserve the right, but are not obligated, to remove or disable access to any Services, at any time and without notice, including, but not limited to, if we, at our sole discretion, consider any activity to be objectionable or in violation of these Terms. We have the right to investigate violations of these Terms or conduct that affects the Services. We may also consult and cooperate with law enforcement authorities to prosecute users who violate the law.

### **Changes to Terms or Services**

We may modify the Terms at any time, in our sole discretion. If we do so, we'll let you know either by posting the modified Terms on the Site or through other communications via the Services. It's important that you review the Terms whenever we modify them because if you continue to use the Services after we have posted modified Terms on the Site or via the Services, you are indicating to us that you agree to be bound by the modified Terms. If you don't agree to be bound by the modified Terms, then you may not use the Site or the Services anymore. Because our Services are evolving over time we may change or discontinue all or any part of the Services, at any time and without notice, at our sole discretion.

### **Links to Third Party Websites or Resources**

The Services and Apps may contain links to third-party websites or resources. We provide these links only as a convenience and are not responsible for the content, products or services on or available from those websites or resources or links displayed on such websites. You acknowledge sole responsibility for and assume all risk arising from, your use of any third-party websites or resources.

### **Apple**

If you use the Services on an Apple device, then you agree and acknowledge that:

Apple, Inc. bears no duties or obligations to you under the Terms, including, but not limited to, any obligation to furnish you with maintenance and support with respect to the Services;

You will have no claims, and you waive any and all rights and causes of action against Apple with respect to the Services or the Terms, including, but not limited to claims related to maintenance and support, intellectual property infringement, liability, consumer protection, or regulatory or legal conformance;

Apple and Apple's subsidiaries are third party beneficiaries of the Terms. Upon your acceptance of the Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as a third party beneficiary thereof.

**Export Control.** You represent and warrant that: (i) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government

as a “terrorist supporting” country; and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties.

### **Termination**

We may terminate your access to and use of the Services, at our sole discretion, at any time and without notice to you. Upon any termination, discontinuation or cancellation of Services or your account, all provisions of these Terms which by their nature should survive will survive, including, without limitation, ownership provisions, warranty disclaimers, limitations of liability, and dispute resolution provisions.

### **Warranty Disclaimers**

THE SERVICES AND CONTENT ARE PROVIDED “AS IS,” WITHOUT WARRANTY OF ANY KIND. WITHOUT LIMITING THE FOREGOING, WE EXPLICITLY DISCLAIM ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT OR NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. WE MAKE NO WARRANTY THAT THE SERVICES WILL MEET YOUR REQUIREMENTS OR BE AVAILABLE ON AN UNINTERRUPTED, SECURE, OR ERROR-FREE BASIS. WE MAKE NO WARRANTY REGARDING THE QUALITY, ACCURACY, TIMELINESS, TRUTHFULNESS, COMPLETENESS OR RELIABILITY OF ANY CONTENT.

### **Indemnity**

You will indemnify us and hold us harmless including our affiliated entities and their and its officers, directors, employee and agents, from and against any claims, disputes, demands, liabilities, damages, losses, and costs and expenses, including, without limitation, reasonable legal fees arising out of or in any way connected with (i) your access to or use of the Services or Content or (ii) your violation of these Terms.

### **Limitation of Liability**

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, NEITHER WE NOR ANY OTHER PARTY INVOLVED IN CREATING, PRODUCING, OR DELIVERING THE SERVICES OR CONTENT WILL BE LIABLE FOR ANY INCIDENTAL, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, LOSS OF DATA OR GOODWILL, SERVICE INTERRUPTION, COMPUTER DAMAGE OR SYSTEM FAILURE OR THE COST OF SUBSTITUTE SERVICES ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OR FROM THE USE OF OR INABILITY TO USE THE SERVICES OR CONTENT, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT WE HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE, EVEN IF A LIMITED REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR

INCIDENTAL DAMAGES, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL OUR TOTAL LIABILITY ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OR FROM THE USE OF OR INABILITY TO USE THE SERVICES OR CONTENT EXCEED THE AMOUNTS YOU HAVE PAID TO US FOR USE OF THE SERVICES, IF ANYTHING.

### **Time Limitation on Claims**

You agree that any claim you may have arising out of or relating to your relationship with us must be filed within one year after such claim arose; otherwise your claim is permanently barred.

### **Dispute Resolution**

If you are having a problem with a Service, many issues can be resolved by contacting us. You may find resolution by clicking on the “Support” link on that App. Before bringing a formal legal case, first contact our Customer Support team at [privacy@magicant.co.jp](mailto:privacy@magicant.co.jp) to address your issue. Most disputes can be resolved that way.

### **Governing Law and Venue**

These Terms and any action related thereto will be governed by the laws of Japan without regard to its choice of law or conflict of law principles. Further, you and we agree to the exclusive jurisdiction of the courts in Tokyo, Japan to resolve any dispute, claim, or controversy that relates to or arises in connection with the Services.

### **General Terms**

These Terms constitute the entire and exclusive understanding and agreement between us and you regarding the Services and Content, and these Terms supersede and replace any and all prior oral or written understandings or agreements between us and you regarding the Services and Content. If for any reason a court of competent jurisdiction finds any provision of these Terms invalid or unenforceable, that provision will be enforced to the maximum extent permissible and the other provisions of these Terms will remain in full force and effect.

You may not assign or transfer these Terms, by operation of law or otherwise, without our prior written consent. Any attempt by you to assign or transfer these Terms, without such consent, will be null. We may freely assign or transfer these Terms without restriction. Subject to the foregoing, these Terms will bind and inure to the benefit of the parties, their successors and permitted assigns.

Any notices or other communications provided by us under these Terms, including those regarding modifications to these Terms, will be given: (i) via email; or (ii) by posting to the Services. For notices made by e-mail, the date of receipt will be deemed the date on which such notice is transmitted.

Our failure to enforce any right or provision of these Terms will not be considered a waiver of such right or provision. The waiver of any such right or provision will be effective only if in writing and signed by our duly authorized representative. Except as expressly set forth in these Terms, the exercise by either party of any of its remedies under these Terms will be without prejudice to its other remedies under these Terms or otherwise.

### **Contact Information**

If you have any questions about these Terms or the Services, please contact us at [privacy@magicant.co.jp](mailto:privacy@magicant.co.jp) or the address set forth below.

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