

Liveness Detection API Service – Terms of Service

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This English translation is provided for the convenience of the Customer. In the event of any discrepancy between this English version and the Japanese original, the Japanese version shall prevail.

Provider Information

Item	Details
Trade Name	Swallow Incubate Co., Ltd. (Japanese: 株式会社スワローインキュベート)
Head Office	Tsukuba Center Institute B-5, 2-1-6 Sengen, Tsukuba, Ibaraki 305-0047, Japan
Representative	Toshikazu Ohno, Representative Director
Corporate Number	8050001036849
Date of Incorporation	December 3, 2013
Contact	liveness-api@swallow-incubate.com (weekdays 9:00–18:00 JST; dedicated support desk for the Service)

These Terms of Service (these “Terms”) set forth the conditions governing the use of the “Liveness Detection API Service” (the “Service”) provided by Swallow Incubate Co., Ltd. (the “Company”), as identified in the Provider Information above, and apply to all applicants for, and users of, the Service. Please read these Terms carefully before using the Service.

The Service is provided exclusively to business entities (corporations, organizations, or sole proprietors), and does not constitute a transaction with a consumer as defined under the Japanese Consumer Contract Act or any other applicable consumer protection laws. The Service is offered solely for business purposes and is not intended for personal, household, or consumer use. Each applicant for, and user of, the Service agrees that it uses the Service as, or for the purposes of, its business, and represents that this Agreement constitutes a purely commercial transaction.

Article 1 (General Provisions and Scope)

1. These Terms set forth the basic matters concerning the use of the Service between the Customer using the Service and the Company. A Customer may not use the Service unless it agrees to these Terms.
 2. A service agreement for the Service (the “Service Agreement”) is formed between an Applicant and the Company at the earlier of (i) the time the Applicant completes its application in accordance with Article 4 and the Company issues a notice of acceptance, or (ii) the time the Applicant subscribes to the Service through AWS Marketplace.
 3. Where the Service is subscribed to through AWS Marketplace, these Terms apply concurrently with the AWS Customer Agreement and the various AWS Marketplace-related terms (collectively, the “AWS Marketplace Terms”) established by Amazon Web Services, Inc. (“AWS”). In the event of any conflict between these Terms and the AWS Marketplace Terms, the AWS Marketplace Terms shall prevail with respect to the relationship between AWS and the Customer, and these Terms shall prevail with respect to the relationship between the Company and the Customer.
 4. The following matters relating to the Service are governed by the respective documents separately established by the Company, in addition to these Terms. In the event of any conflict between these Terms and such documents with respect to such matters, such documents shall prevail.
 1. Service levels and support: the SLA / Support Policy established by the Company.
 2. Details of the Company’s security measures: the Security Whitepaper established by the Company.
 3. Processing of personal data (including matters concerning the handling under, and where applicable, the GDPR, as well as sub-processors): the Data Processing Agreement (DPA) separately concluded between the Company and the Customer.
 4. Handling of Image Data and Personal Information: Article 10 and the Company’s Privacy Policy.
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Article 2 (Individual and Supplementary Provisions; Amendment of Terms)

1. Where the Company posts individual or supplementary provisions concerning the Service on the Company Website, such provisions shall form part of these Terms. In the event of any conflict between such individual or supplementary provisions and these Terms, such individual or supplementary provisions shall prevail.
2. The Company may, at its discretion and at any time, amend these Terms (including the rules and various provisions concerning the use of the Service posted on the Company Website) by giving notice to the Applicant or the Customer.
3. The notice referred to in the preceding paragraph shall be given by any of the following methods: posting on the Company Website (<https://bio-check.pas-ta.io/>), sending an

email to the email address registered by the Customer with the Company, or posting on the customer dashboard (<https://liveness.api.pas-ta.io/console/dashboard>). In the case of a material change, the Company shall give notice at least thirty (30) days prior to the effective date.

4. The provisions of the preceding paragraphs shall not apply to any amendment that, in light of the actual circumstances of the Service Agreement and generally accepted social norms, is found to unilaterally harm the interests of the Applicant or the Customer.

Article 3 (Definitions)

In these Terms, the terms set forth in each of the following items shall have the meanings respectively defined therein.

1. “Applicant” means a corporation, organization, or sole proprietor that wishes to use the Service and has submitted an application to use the Service.
2. “Customer” means a person that uses the Service under the Service Agreement.
3. “Application” means an application to use the Service submitted by an Applicant in accordance with the method set forth in Article 4.
4. “Customer Information” means the name, email address, affiliated company name, AWS Account ID, payment information, and other information designated by the Company that the Applicant and the Customer provide to the Company at the time of Application and during use of the Service.
5. “Service” means the REST API service for liveness detection (anti-spoofing) provided by the Company, including the API endpoints, the customer dashboard, and accompanying documentation.
6. “API Key” means a character string used to authenticate access to the Service, issued by the Company to the Customer. Two types of keys are issued: a Primary Key and a Secondary Key.
7. “End User” means a natural person who is the subject of liveness detection performed by the Service through an application, service, or the like provided by the Customer.
8. “Image Data” means the facial image data of an End User that the Customer transmits to the Service as part of an API request, including still images and video. Video is processed as a set of consecutive image frames.
9. “Processing Result” means the data returned to the Customer as a result of the Service’s processing of Image Data, including the determination (a boolean value), the confidence score, analysis data, and other accompanying information. The term “determination” in the product brand name “Liveness Detection API” is a designation used for the product name, and the substance of the data provided shall mean the “Processing Result” as defined in this item.
10. “Usage” means the number of API calls to the Service (aggregated on a calendar-month basis using UTC month boundaries).

11. “Company Website” means the website operated by the Company whose domain is <https://bio-check.pas-ta.io/> (including, where the domain or content of the Company’s website is changed for any reason whatsoever, the domain as so changed).
 12. “Intellectual Property Rights” means patent rights, utility model rights, trademark rights, design rights, know-how, copyrights, and other intellectual property rights (including the rights to acquire such rights or to apply for the registration of such rights).
 13. “AWS Marketplace” means the online marketplace operated by Amazon Web Services, Inc. or its affiliates for selling third-party SaaS products and the like to customers.
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Article 4 (Application)

1. An Applicant may apply to the Company to use the Service by agreeing to comply with these Terms and by either of the following methods:
 1. subscribing to the Service through AWS Marketplace and providing Customer Information to the Company by the method designated by the Company on the onboarding screen designated by the Company; or
 2. contacting the Company directly and providing Customer Information by the written or electromagnetic method designated by the Company (only where the Company has individually consented thereto).
2. The Company shall determine the propriety of an Applicant’s application in accordance with the Company’s criteria, and where the Company deems it appropriate, shall notify the Applicant to that effect.
3. At the earlier of the time the Company dispatches the notice of acceptance of the application set forth in the preceding paragraph, or the time the contract is formed through AWS Marketplace by the method set forth in the preceding paragraph, the Service Agreement, governed by the provisions of these Terms, is formed between the Applicant and the Company, and such Applicant/Customer becomes able to use the Service by the method designated by the Company.
4. The Company may refuse an application by a person that has submitted an Application under Paragraph 1 where such person falls under any of the following items:
 1. where all or part of the application information provided to the Company contains any falsehood, error, or omission;
 2. where such person uses, or attempts to use, the technology provided through the Service for any purpose other than the purpose set forth in Article 5;
 3. where such person is a minor, an adult ward, a person under curatorship, or a person under assistance, and has not obtained the consent of a statutory agent, guardian, curator, or assistant;

4. where the Company determines that such person is an Anti-Social Force (meaning an organized crime group, a member of an organized crime group, a right-wing organization, an anti-social force, or any person equivalent thereto; the same applies hereinafter), or has any interaction with or involvement in Anti-Social Forces, such as cooperating with or being involved in the maintenance, operation, or management of Anti-Social Forces through the provision of funds or otherwise;
 5. where such person is located in a country subject to sanctions by, or is a person subject to sanctions by, the U.S. Office of Foreign Assets Control (OFAC), or is a person to whom the provision of the Service is restricted under the export control laws and regulations of Japan or other relevant countries;
 6. where such person has previously been subject to a suspension of use, termination, or other measure by the Company on the grounds of a breach of these Terms or other terms of the Company; or
 7. where the Company otherwise determines that the application is inappropriate.
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Article 5 (Content and Use of the Service)

1. The Service is a cloud-based service that applies the liveness detection (anti-spoofing) algorithm designated by the Company to the Image Data transmitted by the Customer as an API request, and returns the Processing Result via a REST API.
 2. During the term of the Service Agreement, the Customer may use the Service in accordance with the method designated by the Company, within the scope of the business operated by the Customer.
 3. The preparation and maintenance of the internet connectivity, computers, software, and other equipment, communication lines, and other communication environment necessary to use the Service shall be carried out at the Customer's own expense and responsibility.
 4. The Customer shall, at its own expense and responsibility, implement security measures appropriate to its usage environment, including measures to prevent computer virus infection, unauthorized access, and information leakage.
 5. The Company shall locate the data center for the Service within Japan (the Tokyo region). However, delivery through AWS Marketplace and the like may route through AWS's global infrastructure.
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Article 6 (Fees and Payment)

1. The fees for the Service shall be in accordance with the fee structure posted on the AWS Marketplace product page (monthly fees by plan and metered charges for Usage in excess of the included amount). The Company may revise the fee structure periodically.

2. The billing and payment of fees shall be conducted through AWS Marketplace, and the Customer shall pay the fees to AWS or its designated payment processor. The Company receives a distribution of the fees from AWS in accordance with the AWS Marketplace Terms.
 3. The fees do not include value-added tax, consumption tax, or other taxes of any country, and such taxes shall be handled in accordance with the AWS Marketplace Terms.
 4. Where a Service Agreement is formed through a route other than AWS Marketplace, the fee structure, billing, and payment method shall be separately determined by individual consultation between the Company and the Customer.
 5. Except as provided in the AWS Marketplace Terms, the Customer may not, for any reason whatsoever, claim a refund of any fees that have been billed through AWS Marketplace.
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Article 7 (Management of API Keys)

1. After the formation of the Service Agreement, the Company shall issue to the Customer two types of API Keys: a Primary Key and a Secondary Key. The Customer may view such API Keys by the method designated by the Company (such as the customer dashboard).
 2. The Customer shall strictly manage the API Keys with the due care of a prudent manager, and shall not, without the prior consent of the Company, disclose, transfer, lend, or otherwise permit any use of the API Keys by any third party.
 3. Any access to the Service and any API calls made using an API Key shall be deemed to have been made by the Customer to whom such API Key was issued, and such Customer shall bear all fees and responsibility arising therefrom.
 4. Where the Customer becomes aware of any leakage of, risk of unauthorized use of, or other incident concerning an API Key, the Customer shall immediately invalidate or regenerate such API Key by the method designated by the Company (regeneration via the customer dashboard or contacting the Company's support desk).
 5. Except where there are grounds attributable to the Company, the Company shall bear no liability for any damage incurred by the Customer arising from the leakage or unauthorized use of an API Key.
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Article 8 (Usage Limits and Overage)

1. The Customer may use the Service within the monthly Usage limit for each plan posted on the AWS Marketplace product page (the "Credits").
2. Where Usage exceeds the Credits, the Customer shall pay, for such excess, the metered charges set forth on the AWS Marketplace product page (the "Overage Charges"). The Customer understands and agrees that, unless the Customer enables the Hard Cap set forth in the

following paragraph, Overage Charges will be incurred automatically and irreversibly at the point Usage exceeds the Credits.

3. The Customer may enable, through the customer dashboard, a setting that automatically blocks overage (the “Hard Cap”). Where the Hard Cap is enabled, at the point Usage reaches the Credits, the Service will return an HTTP 429 status code and halt processing for the remainder of such calendar month.
4. Usage is aggregated using the calendar month in UTC (Coordinated Universal Time) (the period from 00:00 UTC on the first day of each month to 00:00 UTC on the first day of the following month) as the unit.
5. The handling of Usage limits in connection with plan changes, cancellation, and the like shall be in accordance with the operational rules separately established by the Company (including the indications on the customer dashboard).

Article 9 (Obligation to Obtain Consent from End Users)

1. Before transmitting Image Data to the Service, the Customer shall, in its relationship with the relevant End User and in accordance with applicable laws and regulations, bear the obligation to obtain the necessary consent or otherwise secure a lawful basis for acquisition with respect to the following matters (including, where express consent is required by the Act on the Protection of Personal Information or other applicable laws and regulations, obtaining such consent):
 1. that the facial image, as special care-required personal information (including biometric information), is provided to a third party (the Company) for the purpose of liveness detection;
 2. that the Company processes such Image Data on cloud infrastructure within Japan (the Tokyo region); and
 3. that the Processing Result is returned to the Customer and used for the Customer’s business purposes.
2. Where the Customer acquires Image Data from an End User subject to the GDPR, the CCPA, or other foreign laws and regulations, the Customer shall, at its own responsibility, secure the lawful basis required by such laws and regulations (including express consent under the GDPR). Furthermore, where the GDPR applies in connection with the use of the Service, the Customer shall conclude and comply with the Data Processing Agreement (DPA) separately presented by the Company.
3. The Customer represents and warrants to the Company, both at the commencement of use of the Service and during continued use, that it has obtained the consent of End Users under the preceding paragraphs and that it has presented its own privacy policy to such End Users.
4. Where, as a result of the Customer’s breach of its obligations under the preceding paragraphs, any claim, lawsuit, investigation, administrative disposition, or other measure is brought against

the Company by an End User, a supervisory authority, or any other third party, the Customer shall bear the obligation to defend, indemnify, and hold harmless the Company from and against any and all damages, losses, liabilities, and expenses incurred by the Company (including reasonable attorneys' fees and reasonable internal costs incurred in responding thereto).

Article 10 (Handling of Image Data)

1. The Company shall use the Image Data received from the Customer in the Service solely for the generation of the Processing Result. Such processing shall, in principle, be performed only in the memory of the Company's servers, and the Company shall not, after returning the Processing Result, permanently store the contents of such Image Data (including raw image data and extracted feature vectors) on disk or other external storage. However, Image Data may temporarily remain to the extent reasonably necessary, including temporary processing required for liveness detection (such as temporary expansion into memory), responding to system failures, security measures, and the performance of obligations under laws and regulations.
 2. Notwithstanding the provisions of the preceding paragraph, the Company shall store, as a billing record for the Customer's API calls, metadata such as the date and time of the call, the Customer identifier, the Processing Result (boolean value or confidence score), and the image size, and shall retain such metadata for the period necessary under the AWS Marketplace Terms and the like.
 3. The Company may collect and use statistical information that does not identify the Customer for purposes such as failure investigation and security audits relating to the operation of the Service. Such information shall be used after being processed into a form from which no specific individual or Customer can be identified.
 4. The details of the handling of Image Data shall be in accordance with the Company's **Privacy Policy for the Liveness Detection API Service** (<https://bio-check.pas-ta.io/policy/api-privacy-notice/>), and the Customer agrees to the Company's handling of Image Data in accordance therewith. For matters not provided for in such Privacy Policy, the Company's general Privacy Policy (<https://bio-check.pas-ta.io/policy/privacypolicy/>) shall apply.
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Article 11 (Prohibited Acts)

1. In using the Service, the Customer shall not engage in any act that falls under any of the following items:
 1. any act that violates laws or regulations, that promotes a violation of laws or regulations, or that is likely to do so;
 2. any act of fraud or intimidation against the Company or any other third party;

3. any act contrary to public order and morals;
 4. any act that infringes the Intellectual Property Rights, portrait rights, privacy rights, reputation, or other rights or interests of the Company, the Company's licensors, or any other third party (including any act that directly or indirectly causes such infringement);
 5. any act of transmitting Image Data to the Service without obtaining the consent of the End User set forth in Article 9;
 6. any act that imposes an excessive load on the network or systems of the Service (including DDoS attacks and the intentional circumvention of the rate limits separately established by the Company);
 7. any act of gaining unauthorized access to systems connected to the Service without authorization, or any other act that causes damage to the Company;
 8. any act of impersonating the Company, another Customer, or a third party;
 9. any act of providing benefits to Anti-Social Forces, or any act that may lead thereto;
 10. any act of disassembling, decompiling, or reverse engineering the Service, or of separating the libraries or trained models used as the foundation of the Service and using them for other purposes;
 11. any act that hinders, or that the Company determines is likely to hinder, the operation of the business relating to the Service;
 12. any act of misusing API Keys, the URLs to which Image Data is transmitted, or the like, to resell, redistribute, sublicense, share, or the like the Service beyond the scope licensed by the Company;
 13. any act of using the Service for purposes that contribute to the trafficking of illegal drugs, human trafficking, child pornography, or other serious crimes;
 14. any act that directly or indirectly causes or facilitates any of the acts in the preceding items;
 15. any other act that the Company determines to be inappropriate; or
 16. any act of obtaining an API Key, or using the Service, for the purpose of providing it solely for the use of a third party rather than for the Customer's own business (regardless of form, including resale, sub-delegation, proxy use, or provision as a SaaS); provided, however, that this shall not apply to any act of incorporating the Service as part of the functionality of a business operated by the Customer itself (including the Customer's own products and services) and providing the result thereof to the Customer's own customers.
2. Where the Company determines that the Customer falls under, or is likely to fall under, any of the items of the preceding paragraph, or in other cases the Company deems necessary, the Company may demand that the Customer cease the violating act, and the Customer shall comply with such demand within the period determined by the Company. In such case, the Company shall bear no liability for any disadvantage or damage incurred by the Customer as a result of the measures taken by the Company.

Article 12 (Suspension of Use, Termination, etc.)

1. Where it becomes apparent that the Customer falls under any of the following items, the Company may, at its discretion, temporarily suspend such Customer's use of the Service, terminate the Service Agreement, invalidate the API Keys, or take other necessary measures:
 1. where the Customer breaches any provision of these Terms, or where the Company receives a report of such a breach;
 2. where it becomes apparent that all or part of the information provided to the Company contains false facts;
 3. where payment of the fees through AWS Marketplace or the like is delayed, or where AWS gives the Company notice of cancellation of such Customer's contract;
 4. where the Customer fails to respond for thirty (30) days or more to an inquiry or other communication from the Company seeking a response;
 5. where the Customer falls under any item of Article 4, Paragraph 4;
 6. where the Company determines it is necessary for the operation, maintenance, or management of the Service;
 7. where it becomes apparent that the Customer has engaged in an act of separating the libraries or trained models used as the foundation of the Service and using them for other purposes;
 8. where the Customer receives, or itself files, a petition for the commencement of proceedings for insolvency, suspension of payments, bankruptcy, civil rehabilitation, corporate reorganization, special liquidation, dissolution, or the like; or
 9. where the Company determines that there are other grounds similar to the preceding items.
2. The Company shall bear no liability for any damage incurred by the Customer as a result of any act taken by the Company under this Article, and, even after termination of the Service Agreement, the Company may retain and use the information and billing records provided to the Company by such Customer.
3. Where the Customer wishes to voluntarily terminate its use of the Service, the Customer may terminate the Service Agreement through the AWS Marketplace cancellation procedure or the cancellation procedure separately established by the Company. Such termination shall take effect, in accordance with the AWS Marketplace Terms and these Terms, at the end of the relevant calendar month or at the time determined by AWS Marketplace.

Article 13 (Modification, Suspension, Discontinuation, Addition, and Abolition of the Service, etc.)

1. The Company may modify, add to, or abolish part of the content relating to the Service without prior notice to the Customer. However, where the Company makes a change that breaks the backward compatibility of the API endpoints, response formats, or the like, the Company shall endeavor to notify the Customer via email or the customer dashboard at least ninety (90) days prior to the effective date of such change; provided, however, that this shall not apply where urgent action is required for security or legal reasons. Furthermore, the Company may discontinue the provision of older versions of the API in connection with reasonable updates to the Service, and the Customer shall migrate to the latest version at its own expense and responsibility within the period designated by the Company.
 2. The Company may temporarily suspend all or part of the Service without prior notice to the Customer where any of the following events occurs:
 1. where maintenance or repair of the hardware, software, communication equipment, and the like for the Service is performed periodically or on an emergency basis;
 2. where the services of a telecommunications carrier, AWS, or other infrastructure provider are not provided;
 3. where the provision of the Service becomes difficult due to force majeure such as a natural disaster;
 4. where the provision of the Service becomes difficult due to fire, power outage, or other unforeseen accident;
 5. where the provision of the Service becomes difficult due to war, conflict, disturbance, riot, labor dispute, or the like;
 6. where urgent action is required in response to a cyberattack or other security incident; or
 7. where the Company otherwise determines it necessary in a manner similar to the preceding items.
 3. The Company shall bear no liability for any disadvantage or damage incurred by the Customer as a result of any measure taken by the Company under this Article; provided, however, that where a separately established SLA concerning the uptime exists, the provisions of such SLA shall apply.
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Article 14 (Ownership of Intellectual Property Rights)

1. All Intellectual Property Rights in the Service and in everything that the Company allows the Customer to use in connection with the Service belong to the Company or to the person that has licensed them to the Company (the licensor). The Service Agreement does not grant the Customer a license to Intellectual Property Rights beyond the scope necessary to use the Service.
2. The Image Data and all Intellectual Property Rights relating to the Image Data belong to the Customer or the relevant End User, and the Company does not acquire any such Intellectual Property Rights. However, the Customer grants the Company the right to use the Image Data to

the extent necessary for the Company to generate the Processing Result and to the extent necessary to create the statistical information set forth in Article 10, Paragraph 3.

3. The Intellectual Property Rights in the algorithms, models, analysis logic, output formats, and the like that constitute the Service belong to the Company. The right to use the Processing Result itself belongs to the Customer, and the Customer may freely use the Processing Result within the scope of its own business purposes (including recording and storing it in its own systems).
 4. The Customer shall not, without the Company's permission, use, edit, translate, modify, or otherwise handle any information or the like provided by the Company in connection with the Service in any manner other than as expressly permitted in these Terms, nor cause any third party to use, or make public, the same. Furthermore, the Customer shall not, for any reason whatsoever, engage in any act likely to unfairly infringe the Intellectual Property Rights of the Company or the Company's licensors (including, but not limited to, disassembly, decompilation, and reverse engineering).
 5. Trademarks, logos, service marks, and the like (collectively, the "Trademarks") may be displayed on the Service; however, the Company does not transfer, or grant a license to use, any such Trademarks to the Customer or any other third party.
 6. Where a third party asserts that the Service infringes such third party's Intellectual Property Rights, the Company may, at its own expense and discretion, (1) conduct a defense against such assertion, (2) modify the Service into a non-infringing form or provide a substitute function, or (3) suspend the provision of all or part of the Service. The Company's liability with respect to the foregoing shall not exceed the scope set forth in Article 19 of these Terms.
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Article 15 (Handling of Customer Information)

1. The Company's handling of Customer Information shall be in accordance with the Company's **Privacy Policy for the Liveness Detection API Service** (<https://bio-check.pas-ta.io/policy/api-privacy-notice/>) and the Company's general Privacy Policy (<https://bio-check.pas-ta.io/policy/privacypolicy/>), and the Customer agrees to the Company's handling of Customer Information in accordance with these Privacy Policies.
 2. The Customer agrees that the Company may, at its discretion, use the information, data, and the like provided by the Customer to the Company for purposes such as the improvement and development of the Service, the prevention of unauthorized use, and failure investigation, and may make it public as statistical information in a form from which no individual can be identified.
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Article 16 (Confidentiality)

1. In these Terms, “Confidential Information” means all information concerning the technical, business, operational, financial, organizational, and other matters of the disclosing party (where the disclosing party is the Company, including persons that have licensed information to the Company) that one party (the “Disclosing Party”) provides or discloses to the other party (the “Receiving Party”) in writing, orally, or via recording media in connection with the Service Agreement or the Service, or that the Receiving Party comes to know. However, the following shall not constitute Confidential Information:
 1. information that was already publicly known, or already known to the Receiving Party, at the time of provision, disclosure, or acquisition from the Disclosing Party;
 2. information that became publicly known through publication or otherwise, after provision, disclosure, or acquisition from the Disclosing Party, through no fault of the Receiving Party;
 3. information lawfully acquired from a third party having the authority to provide or disclose it, without being subject to a confidentiality obligation;
 4. information independently developed without reference to the Confidential Information; or
 5. information confirmed in writing by the Disclosing Party as not requiring confidentiality.
 2. The Receiving Party shall use the Confidential Information solely for the purpose of performing the Service Agreement or using the Service, and shall not provide, disclose, or leak the Confidential Information to any third party without the written consent of the Disclosing Party. The Company and the Customer shall each bear the confidentiality obligation set forth in this Article mutually, in cases where each is the Receiving Party.
 3. Notwithstanding the provisions of the preceding paragraph, the Receiving Party may disclose Confidential Information pursuant to an order, demand, or request of a law, a court, or a governmental authority. However, where such order, demand, or request is made, the Receiving Party shall promptly notify the Disclosing Party to that effect.
 4. The Receiving Party shall, whenever requested by the Disclosing Party and without delay, in accordance with the Disclosing Party’s instructions, return, destroy, or otherwise dispose of, as requested by the Disclosing Party, the Confidential Information and all written and other recording media on which the Confidential Information is recorded or contained, and all copies thereof.
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Article 17 (Exclusion of Anti-Social Forces)

1. The Customer represents and warrants, both at the time of conclusion of these Terms and thereafter, that it (where the Customer is a corporation, including its officers and persons that substantially control it) does not fall under, and has no relationship of any kind with, Anti-Social Forces.

2. Where the Customer breaches the representation and warranty in the preceding paragraph, the Company may immediately terminate the Service Agreement without any notice or demand, and shall bear no liability for any damage incurred by the Customer as a result of such termination.
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Article 18 (Disclaimer of Warranties and Limitation of Liability)

1. **THE SERVICE IS PROVIDED “AS IS” AND “AS AVAILABLE”, WITHOUT WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. The Company makes no warranty whatsoever that the Service is fit for the Customer’s particular purpose, that it has the technical, functional, or commercial value, accuracy, or usefulness expected, that the Customer’s use of the Service complies with the laws and regulations or internal rules of industry organizations applicable to the Customer, that the Processing Result is always accurate, or that no defects will arise. In particular, the Company shall bear no liability whatsoever for any damage arising from an erroneous determination caused by the accuracy of the Processing Result (including false positives or false negatives), or from any judgment or action of the Customer or an End User based thereon.**
 2. Even upon request by the Customer, the Company shall bear no obligation to disclose to such Customer the details of the technical matters of the Service or the information that the Company determines to be related thereto.
 3. The Company shall bear no liability to compensate, beyond the scope set forth in Article 19 of these Terms, for any damage incurred by the Customer in connection with the Service, including the suspension, halt, termination, unavailability, or modification of the provision of the Service by the Company, the deletion of the Customer’s application, the loss of application data or the like due to use of the Service, or the malfunction or damage of equipment.
 4. Where a dispute arises between the Customer and a third party (including an End User) in connection with the use of the Service, the Customer shall resolve it at its own responsibility and expense, and the Company shall not be involved therein in any way.
 5. The Service supports the Customer’s identity verification and other determinations, and the Company is not the final decision-maker for identity verification. The Customer shall, in light of the nature and limitations of the Processing Result, appropriately use the Processing Result at its own responsibility, and where making an important decision, it is desirable for the Customer to take, as necessary, supplementary measures such as human review.
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Article 19 (Limitation of Liability)

1. **The total amount of the Company’s liability for damages to the Customer under the Service Agreement shall be limited to the higher of (i) JPY 500,000, or (ii) the total**

- amount of the fees for the Service actually paid by such Customer to the Company (or the amount distributed to the Company via AWS Marketplace) during the most recent one (1) month in which the grounds attributable to the Company arose.**
- In no event shall the Company be liable for any special, indirect, incidental, consequential, or punitive damages, lost profits, loss of business, loss of revenue, loss of data, or other damages, regardless of the form of action and even if the Company has been advised of the possibility of such damages.**
 - The provisions of the preceding paragraphs shall not apply where the Company has acted with intent or gross negligence, where their application is restricted by the Consumer Contract Act or other mandatory laws, or in other cases where a limitation of liability is not permitted by laws and regulations.
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Article 20 (Special Provisions for the Free Plan)

- The provisions of Article 6 (Fees and Payment) shall not apply to the use of a plan provided by the Company free of charge (the “Free Plan”). The conditions of use, Usage limits, and other handling of the Free Plan shall be in accordance with the content separately established by the Company or displayed on the AWS Marketplace product page or the customer dashboard.
 - Notwithstanding the provisions of Article 19 (Limitation of Liability), with respect to the use of the Free Plan, the Company shall bear no liability whatsoever to compensate for any damage incurred by the Customer, for any reason whatsoever, except where the Company has acted with intent or gross negligence.
 - The Company may, without prior notice to the Customer of the Free Plan and at any time, modify, suspend, or terminate the content of the Free Plan (including the deletion of accounts that have not been used for a certain period), and shall bear no liability for any damage incurred by the Customer as a result thereof.
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Article 21 (Communications and Notices)

- Inquiries concerning the Service, communications upon the loss or leakage of an API Key, other communications or notices from the Customer to the Company, notices concerning amendments to these Terms, and other communications or notices from the Company to the Customer shall be made by the method designated by the Company (the email address of the dedicated support desk for the Service `liveness-api@swallow-incubate.com`, the email address of the Company’s general support desk `support@swallow-incubate.com`, the customer dashboard, postings on the Company Website, and the like). Where the Customer communicates with the Company by email, it is recommended that “[Liveness API]” be prefixed to the beginning of the subject line.

2. The Company may distribute, to the email address registered by the Customer, emails concerning the Service, including advertisements and promotions, and information on feature additions and failures.
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Article 22 (Assignment of Status under the Service Agreement, etc.)

1. The Customer may not, without the prior written consent of the Company, assign (including general succession by merger, corporate split, or the like) or pledge as collateral all or part of its status under the Service Agreement or its rights and obligations under these Terms to any third party.
 2. Where the Company assigns the business relating to the Service to another company, the Company may, in connection with such business assignment, assign to the assignee of such business assignment its status under the Service Agreement, its rights and obligations under the Service Agreement, and the Customer's application information and other customer information, and the Customer shall be deemed to have consented in advance to such assignment under this paragraph. The business assignment referred to in this paragraph includes general succession by merger or corporate split in which the Company becomes the disappearing company or the splitting company.
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Article 23 (Severability)

Even where any provision of these Terms, or part thereof, is held to be invalid or unenforceable under laws and regulations or the like, the remaining provisions of these Terms and the remaining part of the provision held to be partly invalid or unenforceable shall continue to be valid in full force and effect, and the Company and the Customer shall endeavor to amend such invalid or unenforceable provision or part to the extent necessary to make it lawful and enforceable, and to secure the intent of such invalid or unenforceable provision or part and an equivalent effect both legally and economically.

Article 24 (Surviving Provisions)

The provisions of Article 9, Paragraph 4; Article 10; Article 11, Paragraph 2; Article 12, Paragraph 2; Article 13, Paragraph 3; and Articles 14 through 27 shall survive the termination of the Service Agreement.

Article 25 (Export Control)

In using the Service, the Customer shall comply with the Foreign Exchange and Foreign Trade Act of Japan, the U.S. Export Administration Regulations (EAR), the regulations of the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC), and other applicable export control laws and regulations, and shall not, directly or indirectly, provide the Service or the technology or information obtained through it to any country, organization, or individual restricted by such laws and regulations.

Article 26 (Governing Law and Jurisdiction)

These Terms shall be governed by and construed in accordance with the laws of Japan, without regard to its conflict of laws principles. The United Nations Convention on Contracts for the International Sale of Goods shall not apply. The Tokyo District Court shall have exclusive jurisdiction as the court of first instance over any and all disputes arising out of or in connection with these Terms.

Article 27 (Resolution by Consultation)

Where any matter not provided for in these Terms arises, or where any doubt arises as to the interpretation of these Terms, the Company and the Customer shall promptly resolve it through consultation in accordance with the principle of good faith.

Swallow Incubate Co., Ltd.

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Toshikazu Ohno, Representative Director