

**ENIGMA FORT COLLINS  
TERMS OF USE**

Last updated: February 18, 2019

Enigma LLC and its affiliates (“**Enigma**,” “**we**” or “**us**”) own and operate [www.enigmafortcollins.com](http://www.enigmafortcollins.com) (this “**Website**”). Access to and use of this Website, its features, and the products and services available through this Website (collectively, the “**Services**”) are subject to the following terms, conditions and notices (the “**Terms of Use**”).

**PLEASE READ THE FOLLOWING CAREFULLY AS IT AFFECTS YOUR LEGAL RIGHTS. THESE TERMS OF USE CONTAIN AN AGREEMENT TO ARBITRATE THAT REQUIRES THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES RATHER THAN JURY OR ANY OTHER COURT PROCEEDINGS OR CLASS ACTIONS OF ANY KIND.**

By accessing or using the Services, you are agreeing to all of these Terms of Use, as may be updated by us from time to time, as well as our Privacy Policy, as it may be updated by us from time to time. Please read each of them carefully. You should check these Terms of Use and our Privacy Policy regularly to take notice of any changes we may have made. Any person or entity who interacts with the Website through the use of crawlers, robots, browsers, data mining or extraction tools, or other functionality, whether such functionality is installed or placed by such person or entity or a third party, is considered to be using the Services.

**1) Access and Use**

Subject to your compliance with these Terms of Use, Enigma or our content providers grant you a limited, non-exclusive, non-transferable, non-sublicensable license to access and make personal and non-commercial use of the Services. Access to and use of the Services is permitted on a temporary basis, and we reserve the right to withdraw or amend the Services without notice. All rights not expressly granted to you in these Terms of Use are reserved and retained by Enigma or its licensors, suppliers, publishers, rightsholders, or other content providers.

You may use the Services only as permitted by law. The licenses granted by Enigma terminate immediately and automatically if you do not comply with these Terms of Use. We will not be liable if, for any reason, this Website is unavailable at any time or for any period. From time to time, we may restrict access to some parts or all of this Website.

This Website may contain links to other websites that are not operated by Enigma (the “**Linked Sites**”); Enigma has no control over the Linked Sites and accepts no responsibility for them or for any loss or damage that may arise from your use of them. Your use of the Linked Sites will be subject to the terms of use and service contained within each such site.

You may post reviews, comments, photos, images, graphics, videos, audio recordings, and other content and submit suggestions, ideas, comments, questions, or other information (collectively “**User Content**”), so long as such content is not illegal, obscene, threatening, defamatory, invasive of privacy, infringing of intellectual property rights (including publicity rights), or otherwise injurious to third parties or objectionable, and does not consist of or contain software viruses, political campaigning, commercial solicitation, chain letters, mass mailings, or any form of “spam” or unsolicited commercial electronic messages. The term

User Content includes, without limitation, any content you (i) submit or post on the Website or through tools or applications we provide for posting or sharing such content with us or (ii) have posted or uploaded to your social media accounts, including, but not limited to, Instagram, Twitter, Facebook, Tumblr, and Pinterest, and allowed us to feature.

If you post any User Content, and unless we indicate otherwise, then you grant Enigma a non-exclusive, fully paid-up, royalty-free, perpetual, irrevocable, and fully sublicensable and transferable right and license to copy, publish, translate, modify, reformat, create derivative works from, distribute, reproduce, sell, display, transmit, publish, broadcast, host, archive, store, cache, use, or otherwise exploit all or any portion of the User Content, as well as your name, persona, and likeness included in any User Content and your social media account handle, username, real name, profile picture, and/or any other information associated with the User Content, in any commercial or noncommercial manner whatsoever, in whole or in part, in any and all distribution channels, forms, media, or technology, whether now known or later developed, including, without limitation, in stores, printed marketing materials, emails, web pages, social media accounts and for any other marketing, advertising, public relations, sales, or promotional purposes with or without attribution and without further notice to you. Neither you, nor any other person or entity, will have the right to (i) receive any royalty or consideration of any kind for the use of the User Content pursuant to these Terms of Use or (ii) inspect or approve the editorial copy or other material that may be used in connection with the User Content. Enigma will be free to use any ideas, concepts, know-how, or techniques contained in such User Content for any purpose whatsoever, including, but not limited to, developing, manufacturing, and marketing products that incorporate or otherwise rely upon such information. You further irrevocably waive any “moral rights” or other rights with respect to attribution of authorship or integrity of materials regarding User Content that you may have under any applicable law under any legal theory.

By submitting or posting User Content, you represent and warrant that: you own or otherwise control all of the rights to the User Content that you post; the User Content is accurate; use of the User Content you supply does not violate these Terms of Use and will not cause injury to any person or entity; and you will indemnify Enigma for all claims resulting from content you supply. Enigma reserves the right (but has no obligation) to remove or edit such content. Enigma takes no responsibility and assumes no liability for any content posted by you or any third party.

## **2) Prohibitions**

The right to access and use the Services does not include: any resale or commercial use of any Services or their contents; any collection and use of any product listings, descriptions, or prices; any derivative use of any Services or their contents; any downloading, copying or other use of account information for the benefit of any third party; or any use of data mining, robots or similar data gathering and extraction tools.

With respect to the Services and all parts of the Services, you will not: commit or encourage a criminal offense; transmit or distribute a virus, trojan, worm, logic bomb, or any other material that is malicious, technologically harmful, in breach of confidence or in any way offensive or obscene; hack into any aspect of the Services; corrupt data; cause annoyance to other users; infringe upon any other person’s proprietary rights; send any unsolicited advertising or promotional material, commonly referred to as “spam”; use a false email address, impersonate any person or entity, or otherwise mislead as to the origin of a payment card or other content; or attempt to affect the performance or functionality of any computer facilities of or accessed through this Website. Breaching this provision could constitute a

criminal offense and Enigma will report any such breach to the relevant law enforcement authorities and disclose your identity to them.

You may not frame or utilize framing techniques to enclose any trademark, logo, or other proprietary information (including images, text, page layout, or form) of Enigma without our express written consent. You may not use any meta tags or any other “hidden text” utilizing the Enigma or Spaceteam names or trademarks without the express written consent of Enigma. You may not misuse the Services.

### **3) Content, Software and Intellectual Property**

All content included in or made available through any Services, such as text, graphics, logos, button icons, images, video and audio clips, digital downloads, data compilations, and all software is the property of Enigma or its content suppliers and protected by U.S. and international intellectual property laws, including, without limitation, U.S. and international copyright laws. Furthermore, the compilation of all content included in or made available through any Services is the exclusive property of Enigma and protected by U.S. and international copyright laws.

In addition, graphics, logos, page headers, button icons, scripts, and service names included in or made available through any Services are trademarks or trade dress of Enigma in the United States and other countries. Enigma trademarks and trade dress may not be used in connection with any product or service that is not a Enigma product or service, in any manner that is likely to cause confusion among customers, or in any manner that disparages or discredits Enigma. All other trademarks not owned by Enigma that appear in any Services are the property of their respective owners, who may or may not be affiliated with, connected to or sponsored by Enigma. Except where expressly stated to the contrary, all persons (including their names and images), third-party trademarks and content featured on this Website are in no way associated, linked, or affiliated with Enigma, and you should not rely on the existence of such a connection or affiliation. Where reference is made to a trademark or brand name, it is used solely to describe or identify the product or service and is in no way an assertion that such product or service is endorsed by or connected to Enigma.

All intellectual property rights are reserved by Enigma and its licensors. You may store, print, and display the content supplied solely for your own personal use. You are not permitted to publish, manipulate, distribute, or otherwise reproduce, in any format, any of the content or copies of the content supplied to you or that appears on this Website nor may you use any such content in connection with any business or commercial enterprise.

### **4) Copyright Policy**

#### **Reporting Claims of Copyright Infringement**

We respect the intellectual property rights of others, and we ask our users to do the same. If you believe any materials accessible on or from this Website infringe your copyright, you may request removal of those materials (or access to them) from the Website by submitting written notification to our copyright agent designated below. In accordance with the Online Copyright Infringement Liability Limitation Act of the Digital Millennium Copyright Act (17 U.S.C. § 512) (“DMCA”), the written notice (the “DMCA Notice”) must include substantially the following:

- Your physical or electronic signature;

- Identification of the copyrighted work you believe to have been infringed or, if the claim involves multiple works on the Website, a representative list of such works;
- Identification of the material you believe to be infringing in a sufficiently precise manner to allow us to locate that material;
- Adequate information by which we can contact you (including your name, postal address, telephone number, and, if available, email address);
- A statement that you have a good faith belief that use of the copyrighted material is not authorized by the copyright owner, its agent, or the law;
- A statement that the information in the written notice is accurate; and
- A statement, under penalty of perjury, that you are authorized to act on behalf of the copyright owner.

Our designated copyright agent to receive DMCA Notices is:

DMCA Designated Agent  
P.O. Box 2150-80306  
Boulder, CO 80306  
dmca@stellarfactory.com

If you fail to comply with all of the requirements of Section 512(c)(3) of the DMCA, your DMCA Notice may not be effective.

Upon receipt of notices complying with the DMCA, Enigma will act to remove or disable access to any material found to be infringing or found to be the subject of infringing activity and will act to remove or disable access to any reference or link to material or activity that is found to be infringing. If a dispute develops as to the correct owner of the rights in question, we reserve the right to remove your content along with that of the alleged infringer pending resolution of the matter.

Please be aware that if you knowingly materially misrepresent that material or activity on the Website is infringing your copyright, you may be held liable for damages (including costs and attorneys' fees) under Section 512(f) of the DMCA.

THE PRECEDING INFORMATION IS PROVIDED EXCLUSIVELY FOR NOTIFYING ENIGMA ABOUT INFRINGEMENTS OF COPYRIGHTED MATERIAL. ALL OTHER COMMUNICATIONS, SUCH AS PRODUCT- OR SERVICE-RELATED QUESTIONS AND REQUESTS, WILL NOT RECEIVE A RESPONSE THROUGH THIS PROCESS.

#### Repeat Infringers

It is our policy in appropriate circumstances to disable and/or terminate the accounts of users who are repeat infringers.

### **5) Terms of Sale**

You may need your own Enigma account to use certain parts of the Services, and you may be required to be logged into the account and have a valid payment method associated with it. You are responsible for maintaining the confidentiality of your account and password and for restricting access to your account, and you agree to accept responsibility for all activities that occur under your account or password.

To contract with Enigma, you must be at least 18 years of age and possess a valid means of electronic payment (e.g., Amazon Pay, PayPal, a credit or debit card, etc.). Enigma retains

the right to refuse any request made by you. If your order is accepted, then we will inform you by email, and we will confirm the identity of the party with whom you have contracted. This will usually be Enigma or may in some cases be a third party. Where a contract is made with a third party, Enigma is not acting as either agent or principal and the contract is made between yourself and that third party and will be subject to the terms of sale that the third party supplies to you. When placing an order, you undertake that all details you provide to us are true and accurate, that you are an authorized user of the credit or debit card used to place your order, and that there are sufficient funds to cover the cost of the goods. Enigma reserves the right to refuse service, terminate accounts, terminate your rights to use the Services, remove or edit content, or cancel orders in our sole discretion.

By placing an order, you are offering to purchase a product or service on and subject to the following terms and conditions. All orders are subject to availability and confirmation of the order price. The cost of foreign products and services may fluctuate. All prices advertised are subject to changes. Dispatch times may vary according to availability and subject to any delays resulting from postal delays or force majeure events for which we will not be responsible.

a) Our Contract. When you place an order, you will receive an acknowledgement email confirming receipt of your order; this email will only be an acknowledgement and will not constitute acceptance of your order. A contract between us will not be formed until we send you confirmation by email that the goods that you ordered have been dispatched to you. Only those goods listed in the confirmation email sent at the time of dispatch will be included in the contract formed.

b) Pricing and Availability. Although we try to ensure that all details, descriptions, and prices that appear on this Website are accurate, errors may occur. If a product offered by Enigma itself is not as described, then your sole remedy is to return it in unused condition. If we discover an error in the price of any goods that you have ordered, then we will inform you of this as soon as possible and give you the option of reconfirming your order at the correct price or cancelling it. If we are unable to contact you, then we will treat the order as cancelled; if you cancel and you have already paid for the goods, then you will receive a full refund.

c) Shipping Fees; Custom and Duty Fees. In addition to the price for the product, we may charge a shipping fee. Additional charges are clearly displayed where applicable and included in the total cost of the purchase. Furthermore, all customs and duty fees, and any applicable sales taxes, are your responsibility to pay. Shipping costs are non-refundable, which includes returns, package rejection upon arrival, and/or failure to pay duty fees.

d) Payment. Upon receiving your order, we confirm the availability of sufficient funds to fulfill the transaction through your designated payment method (e.g., Amazon Pay, PayPal, a credit or debit card, etc.). The monies received upon confirmation of your payment method will be treated as a deposit against the value of the goods you wish to purchase. Once the goods have been dispatched, the monies paid as a deposit will be used as consideration for the value of goods you have purchased, as listed in the confirmation email. The risk of loss and title for products pass to you upon our delivery to the carrier.

e) Returns and Refunds. Enigma does not take title to returned items until the item arrives at our fulfillment center. At our discretion, a refund may be issued without requiring a return. In this situation, Enigma does not take title to the refunded item.

## **6) Electronic Communications**

Unless you notify us otherwise in accordance with our Privacy Policy, you consent to receive communications from us electronically, such as emails, texts, mobile push notices, or notices and messages on this Website or through any other Services. You agree that all agreements, notices, disclosures, and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing.

## **7) International Users**

The Website is controlled, operated, and administered by Enigma from its offices within the United States and is not intended to subject Enigma to the laws or jurisdiction of any state, country, or territory other than that of the United States. Although the Website may be accessed from countries around the world, Enigma makes no representation that the Website or Services are appropriate or available for use in any jurisdiction other than the United States. If you choose to access the Website from outside the United States, you do so on your own initiative and at your own risk and are responsible for complying with all local statutes, orders, regulations, rules, and other laws.

## **8) Export Policy**

You agree that any purchased goods licensed or sold on the Website, which may include software and technology, and all software that is contained on the Website (including all HTML code and controls), are subject to the customs and export control laws and regulations of the United States and may also be subject to the customs and export laws and regulations of the country in which the products are manufactured and/or received. THE COPYING OR REPRODUCTION OF SUCH SOFTWARE TO ANY OTHER SERVER OR LOCATION FOR FURTHER REPRODUCTION OR REDISTRIBUTION IS EXPRESSLY PROHIBITED. By purchasing, downloading, or using technology or software from the Website, you agree to abide by applicable laws, rules, and regulations including, but not limited to, the Export Administration Act and the Arms Export Control Act, and you represent and warrant that you will not transfer, by electronic transmission or otherwise, the software or technology to a foreign national or a foreign destination in violation of the law.

## **9) Disclaimer of Liability**

THE SERVICES AND ALL INFORMATION, CONTENT, MATERIALS, PRODUCTS (INCLUDING SOFTWARE), AND OTHER SERVICES INCLUDED ON OR OTHERWISE MADE AVAILABLE TO YOU THROUGH THE SERVICES ARE PROVIDED BY ENIGMA ON AN "AS IS" AND "AS AVAILABLE" BASIS, UNLESS OTHERWISE SPECIFIED IN WRITING. ENIGMA MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE OPERATION OF THE SERVICES, OR THE INFORMATION, CONTENT, MATERIALS, PRODUCTS (INCLUDING SOFTWARE), OR OTHER SERVICES INCLUDED ON OR OTHERWISE MADE AVAILABLE TO YOU THROUGH THE SERVICES, UNLESS OTHERWISE SPECIFIED IN WRITING. YOU EXPRESSLY AGREE THAT YOUR USE OF THE SERVICES IS AT YOUR SOLE RISK.

TO THE FULL EXTENT PERMISSIBLE BY LAW, ENIGMA DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY,

FITNESS FOR A PARTICULAR PURPOSE, AND TITLE AND NON-INFRINGEMENT. ENIGMA DOES NOT WARRANT THAT THE SERVICES, INFORMATION, CONTENT, MATERIALS, PRODUCTS (INCLUDING SOFTWARE), OR OTHER SERVICES INCLUDED ON OR OTHERWISE MADE AVAILABLE TO YOU THROUGH THE SERVICES, ENIGMA SERVERS, OR ELECTRONIC COMMUNICATIONS SENT FROM ENIGMA ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

TO THE FULL EXTENT PERMISSIBLE BY LAW, ENIGMA WILL NOT BE LIABLE FOR ANY DAMAGES OF ANY KIND ARISING FROM THE USE OF ANY SERVICES, OR FROM ANY INFORMATION, CONTENT, MATERIALS, PRODUCTS (INCLUDING SOFTWARE), OR OTHER SERVICES INCLUDED ON OR OTHERWISE MADE AVAILABLE TO YOU THROUGH ANY SERVICES, INCLUDING, BUT NOT LIMITED TO, DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, AND CONSEQUENTIAL DAMAGES, UNLESS OTHERWISE SPECIFIED IN WRITING.

FURTHERMORE, WE WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY A DISTRIBUTED DENIAL-OF-SERVICE ATTACK, VIRUSES, OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECTION YOUR COMPUTER EQUIPMENT, COMPUTER PROGRAMS, DATA, OR OTHER PROPRIETARY MATERIAL DUE TO YOUR USE OF THIS WEBSITE OR TO YOUR DOWNLOADING OF ANY MATERIAL POSTED ON IT, OR ON ANY WEBSITE LINKED TO IT.

IF YOU ARE DISSATISFIED WITH THE SERVICES OR THESE TERMS OF USE, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE SERVICES. APPLICABLE LAW MAY NOT ALLOW THE LIMITATION OF LIABILITY SET FORTH ABOVE, SO THIS LIMITATION OF LIABILITY MAY NOT APPLY TO YOU, AND YOU MAY HAVE RIGHTS ADDITIONAL TO THOSE CONTAINED HEREIN. TO THE EXTENT PROHIBITED BY LAW, THE FOREGOING SHALL NOT APPLY TO RESIDENTS OF NEW JERSEY. WITH RESPECT TO RESIDENTS OF NEW JERSEY, ENIGMA SHALL NOT BE LIABLE FOR ANY LOSSES OR DAMAGES ARISING OUT OF OR IN CONNECTION WITH YOUR USE OF OR INABILITY TO USE THE SERVICES, OR ANY MATERIALS THEREIN, UNLESS SUCH DAMAGES OR INJURIES ARE THE RESULT OF ENIGMA'S NEGLIGENT, FRAUDULENT, OR RECKLESS ACTS OR INTENTIONAL MISCONDUCT.

EACH PROVISION OF THESE TERMS OF USE THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS UNDER THE AGREEMENT BETWEEN YOU AND ENIGMA. THIS ALLOCATION IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN YOU AND ENIGMA. THE LIMITATIONS IN THIS SECTION WILL APPLY EVEN IF ANY LIMITED REMEDY FAILS OF ITS ESSENTIAL PURPOSE(S).

#### **10) Linking to this Website**

You may link to our Website, provided you do so in a way that is fair and legal and does not damage our reputation or take advantage of it, but you must not establish a link in such a way as to suggest any form of association, approval, or endorsement on our part where none exists. This Website must not be framed on any other site. We reserve the right to withdraw linking permission without notice in our sole discretion.

#### **11) Indemnity**

You agree to indemnify, defend, and hold harmless Enigma, its managers, officers, employees, consultants, agents, and affiliates, from any and all third-party claims, liability, damages and/or costs (including, but not limited to, attorneys' fees and court costs) arising from, related to, or in connection with your use of this Website or your breach of the Terms of Use.

## **12) Variation**

Enigma will have the right in its absolute discretion at any time and without notice to amend, remove, or vary the Services and/or any page of this Website.

## **13) Invalidity**

If any part of the Terms of Use is unenforceable (including any provision or portion of a provision in which we exclude our liability to you), then the enforceability of any other part of the Terms of Use (including portions of provisions) will not be affected and all other clauses will remain in full force and effect. So far as possible, where any clause/sub-clause or part of a clause/sub-clause can be severed to render the remaining part valid, the clause/sub-clause will be interpreted accordingly. Alternatively, you agree that the clause/sub-clause will be rectified and interpreted in such a way that closely resembles the original meaning of the clause /sub-clause as is permitted by law.

## **14) Waiver**

Our failure to exercise or enforce, our partial exercise or enforcement of, or our delay in exercising or enforcing any right or remedy under these Terms of Use shall not operate as a waiver or estoppel of any right or remedy.

## **15) Disputes**

These Terms of Use shall be governed by, construed, and enforced in accordance with the laws of the State of Colorado, without giving effect to any conflict of law provisions. By using any Services, you agree that any dispute relating in any way to these Terms of Use, your visit to the Website, or to any purchase, return, or other transaction with the Website will be submitted to confidential arbitration in Boulder County, Colorado. However, if you have in any manner violated or threatened to violate any Enigma intellectual property right, Enigma may seek injunctive or other appropriate relief in any state or federal court in Boulder County, Colorado. You consent to exclusive jurisdiction and venue in these courts. Any arbitration under this agreement and these Terms of Use shall be conducted under the prevailing rules of the American Arbitration Association. The arbitrator's award shall be binding and may be entered as a judgment in any court of competent jurisdiction. Any claim or cause of action you may have with respect to Enigma, the Website, or the Services must be commenced within one year after the claim or cause of action arose. To the full extent permitted by applicable law, any dispute resolution proceedings will be conducted only on an individual basis and not in a class, consolidated, or representative action.

## **16) Entire Agreement**

These Terms of Use, including policies and information linked from or incorporated herein, such as our Privacy Policy, constitute the entire agreement between you and Enigma and supersede any and all preceding and contemporaneous agreements between you and Enigma. No provision of these Terms of Use shall be waived except pursuant to a writing executed by the party against whom the waiver is sought. If any provision of these Terms of Use is held invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions will not be affected or impaired. You may not assign, transfer, or sublicense any of your rights or obligations under these Terms of Use without our express prior



written consent. We will not be responsible for failure to fulfill any obligation due to causes beyond our control.

#### **17)Contact Us**

To contact us with any questions or concerns in connection with these Terms of Use or the Website, please contact us through our online contact form or at our mailing address:

[Online Contact Form](#)

#### **Mailing Address**

Enigma

P.O. Box 2150-80306

Boulder, CO 80306