

# Enterprise Terms and Conditions

**Last Modified: May 2016**

These terms and conditions (the “Terms”), together with the Subscription Order Form, govern Enablix LLC’s (“Enablix”) provision and Customer’s use of the services set forth in the applicable Subscription Order Form (the “Services”). As used in these Terms, “Agreement” means, collectively, (1) these Terms, and (2) the Subscription Order Form. If a conflict exists between these Terms and the Subscription Order Form, the terms and conditions of the applicable Subscription Order Form will control.

## Privacy

Our Customer’s privacy is important to us. Please review Enablix’s privacy policy located at [www.enablix.com/privacy](http://www.enablix.com/privacy) for information and notices concerning Enablix’s collection and use of our Customer’s information. The Privacy Policy also governs our Customer’s access and use of the Services.

## Content

Our Customer’s “Content” means all text, images, software, videos, data, graphics, photos, or audiovisual content, hypertext links and any other content made available, no matter what the form or technical structure created, transmitted, stored or displayed in your account. Our Customer’s retain copyright and any other rights already held in their Content before the Content was submitted, posted or displayed it on or through the Services. By using the Services, however, our Customer’s grant to Enablix a limited license, as described below, so we can make sure our Customer’s data is accessible and usable on the Services. Other than this limited license and other rights our Customer’s grant in these Terms, Enablix acknowledges and agrees that we do not obtain any right, title or interest from our Customer under these Terms in any of our Customer’s Content.

## Limited License

In order to enable Enablix to operate the Services, Enablix must obtain from our Customer certain license and other rights to the Content that our Customer submit so that our processing, maintenance, storage, technical reproduction, back-up and distribution and related handling of our Customer’s Content doesn’t infringe applicable copyright and other laws. This means by using the Services and uploading Content, you grant Enablix a license to display, process and distribute our Customer’s Content and to modify (for technical purposes, e.g. making sure content is viewable on mobile devices vs on desktop computers) and reproduce such Content to enable Enablix to operate the Services. You also agree that Enablix has the right to elect not to accept, post, store, display, publish or transmit any content at our sole discretion.

Inasmuch as Enablix relies upon our Customer's rights to upload and distribute their Content, the Customer represents and warrants to Enablix that the Customer has the unfettered legal rights and authority to submit your Content to Enablix, and to make any publication or other distribution of that Content in our Customer's use of the Services. The Customer also represents to Enablix that, by submitting Content to Enablix and granting Enablix the rights described in these Terms, the Customer is not infringing the rights of any person or third party.

Our Customer understand and agree that Enablix, in performing the required technical steps to provide the Services to our Customer's users, may make such changes to our Customer's Content as are necessary to conform and adapt that Content to the technical requirements of connecting networks, devices, services or media.

While our Customer owns the Content you store with Enablix, the Customer acknowledges and agree that Enablix (and our licensors) own(s) all legal right, title and interest in and to the Services, including, without limitation, all software comprising a part of the Services that is hosted on Enablix's servers.

In agreeing to these Terms, our Customer also agree that the rights in the Services and Enablix Software, including all intellectual property rights, are protected by one or more copyright, trademark, patent, trade secret and other laws, regulations and treaties, in addition to these Terms and any separate agreements. In particular, our Customer agrees not to modify, create derivative works of, decompile or otherwise attempt to extract written permission. In agreeing to these Terms, our Customer also agrees that the rights in the Services and Enablix Software, including all intellectual property rights, are protected by one or more of copyright, trademark, patent, trade secret and other laws, regulations and treaties, in addition to these Terms and any separate agreements. In particular, our Customer agree not to modify, create derivative works of, decompile or otherwise attempt to extract source from any Enablix software, unless our Customer is expressly permitted to do under an open source license or Enablix gives the Customer written permission.

## Sharing

The Services provide features that allow Customer to share Customer's Content with others or make it public. There are many things that user of our Customer do with that Content (for example, copy it, modify it, re-share it). Our Customer should consider carefully what the Customer chooses to share or make public. Enablix is not responsible for any sharing or the recipient's actions once the Content is shared.

## Account Security

The Customer is responsible for safeguarding the password that the Customer uses to access the Services and the Customer agrees not to disclose their password to any third party. The Customer is responsible for any activity using the Customer's account, whether or not the

Customer authorized that activity. The Customer should immediately notify Enablix of any unauthorized use of its account. The Customer acknowledges that if the Customer wishes to protect the transmission of their data to Enablix, it is the Customer's responsibility to use a secured encrypted connection to communicate with the Services.

## Acceptable Use

The Customer agrees not to do any of the following while using the Services or Enablix content:

- probe, scan or test the vulnerability of any system or network;
- breach or otherwise circumvent any security or authentication measures;
- access, tamper with or use non-public areas of the Services, shared areas of the Services the Customer has not been invited to, Enablix (or our service providers') computer systems;
- interfere with or disrupt any user, host, or network, for example by sending a virus, overloading, flooding, spamming, or mail-bombing any part of the Services;
- plant malware or otherwise use the Services to distribute malware; access or search the Services by any means other than our publicly supported interfaces (for example, "scraping");
- send unsolicited communications, promotions or advertisements, or spam;
- send altered, deceptive or false source-identifying information, including "spoofing" or "phishing";
- publish anything that is fraudulent, misleading, or infringes another's rights;
- promote or advertise products or services other than your own without appropriate authorization;
- impersonate or misrepresent your affiliation with any person or entity;
- publish or share materials that are unlawfully pornographic or indecent, or that advocate bigotry, religious, racial or ethnic hatred;
- violate the law in any way, or to violate the privacy of others, or to defame others

## DCMA

Enablix respects the intellectual property rights of others and expects its Customers to do the same. In accordance with the Digital Millennium Copyright Act of 1998, the text of which may be found on the U.S. Copyright Office website at <http://www.copyright.gov/legislation/dmca.pdf>, Enablix will respond expeditiously to claims of copyright infringement committed using the Enablix Services if such claims are reported to Enablix's Designated Copyright Agent identified in the sample notice below.

If you are a copyright owner, authorized to act on behalf of one, or authorized to act under any exclusive right under copyright, please report alleged copyright infringements taking place on or through the Services by providing Enablix's agent the written information specified below. Upon receipt of Notice as described below, Enablix will take whatever action, in its sole discretion, it deems appropriate, including removal of challenged content from the Services.

- An electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest;
- A description of the copyrighted work that you claim has been infringed upon;
- A description of where the material that you claim is infringing is located on the Application, including the auction ID number, if applicable;
- Your address, telephone number, and e-mail address;
- A statement by you that you have good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law;
- A statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf;

Enablix's Copyright Agent for notice of claims of copyright infringement on its website can be reached as follows:

Copyright Agent

Enablix LLC

23452 Somerset Crossing Place,

Ashburn, VA 20148

Phone: 703-830-0750

Email: [support@enablix.com](mailto:support@enablix.com)

It is Enablix's policy to respond to notices of alleged copyright infringement that comply with applicable intellectual property law and to terminate the accounts of repeat infringers.

Counter-Notice: If the Customer believes that the Customer's Content that was removed (or to which access was disabled) is not infringing, or that you have the authorization from the copyright owner, the copyright owner's agent, or pursuant to the law, to upload and use the content in the Customer's Content, the Customer may send a written counter-notice containing the following information to the Copyright Agent:

- customer's physical or electronic signature;
- identification of the content that has been removed or to which access has been disabled and the location at which the content appeared before it was removed or disabled;
- a statement that the Customer has a good faith belief that the content was removed or disabled as a result of mistake or a misidentification of the content;
- name, address, telephone number, and email address, of the Customer representative sending the counter-notice

If a counter-notice is received by the Copyright Agent, Enablix will send a copy of the counter-notice to the original complaining party informing that person that it may replace the removed content or cease disabling it in 10 business days. Unless the copyright owner files an

action seeking a court order against the content provider, member or user, the removed content may be replaced, or access to it restored, in 10 to 14 business days or more after receipt of the counter-notice, at our sole discretion.

**Repeat Infringer Policy:** In accordance with the DMCA and other applicable law, Enablix has adopted a policy of terminating, in appropriate circumstances and at Enablix's sole discretion, users of the Customer who are deemed to be repeat infringers. Enablix may also at its sole discretion limit access to the Services and/or terminate the membership of any users of the Customer who infringe any intellectual property rights of others, whether or not there is any repeat infringement.

## Third Parties

Enablix may from time engage certain affiliates or other third parties to provide technical or other services relating to all or part of the Services to the Customer, and the Customer hereby agrees that such third party involvement is acceptable.

## Services

All users accessing the Services are bound to these Terms.

**License Fees.** Enablix provides different levels of services. The Customer pays for Enablix on an annual subscription basis or on the basis of an agreed upon timeframe between the Customer and Enablix. The fees are paid upfront. The Customer's fees correspond to the level of services that the Customer has subscribed to. Fees are subject to change.

**Refunds.** No refunds are offered for a reduction in service level or termination of services mid-subscription cycle.

**Taxes.** The Customer, in addition to the other amounts payable under these Terms, pay all applicable customs, duties, sales, use, value added or other taxes, federal, state or otherwise, however designated, which are levied or imposed by reason of the transaction contemplated by these Terms, excluding only taxes based on Enablix's net income. The Customer agrees to indemnify, defend, and hold Enablix, its officers, directors, consultants, employees, successors and assigns harmless from all claims and liability arising from your failure to report or pay any such tax, duties or assessments.

**Payment Terms.** All undisputed amounts payable to Enablix under this Agreement will be due within thirty (30) days from receipt of an invoice. If payment is not received prior to beginning of the next subscription cycle, the Customer's access to the Service will be disabled; how Enablix will store your Content for 30 days. Once payment is received, Service and access to Customer's Content will be reinstated. If payment is not received within 30 days, the account will be terminated and all Content and other data will be permanently deleted.

Updates and Modifications. Enablix retains the right, in our sole discretion, to implement new elements as part of and/or ancillary to the Services and any Enablix Software, including changes that may affect the previous mode of operations of the Services. We expect that any such modifications will enhance the overall Services, but it is possible that the Customer may not agree with Enablix. We also reserve the right to establish limits to the nature or size of storage available to the Customer, the number of transmissions and messages, the nature or size of any index or library information, the nature of, or the Customer's continued ability to distribute, Customer's Content and other data, and impose other limitations at any time, with or without notice.

The Customer also acknowledges that a variety of Enablix actions may impair or prevent the Customer from accessing the Customer's content or using the Services at certain times and/or in the same way, for limited periods or permanently, and agree that Enablix has no responsibility or liability as a result of any such actions or results, including, without limitation, for the deletion of, or failure to make available to the Customer, any Content. The Customer agrees that Enablix shall not be liable to the Customer or to any third party for any modification, suspension or discontinuance of any part of the Services.

## Termination

The Customer can stop using Services at any time. Enablix does not provide refunds or termination mid-subscription cycle. To cancel renewal of the Customer's subscription, the Customer must inform Enablix in writing of your intent to terminate prior to the beginning of the next Service period. Enablix reserves the right to suspend or terminate the Customer's use if the Customer is not complying with these Terms, or use the Services in any way that would cause Enablix legal liability or disrupt others' use of the Services. If Enablix suspends or terminates the Customer's use, Enablix will try to let the Customer know in advance and help the Customer retrieve the Customer's data, though there may be some cases (for example, repeatedly or flagrantly violating these Terms, a court order, or danger to other users) where Enablix may suspend the Customer's use immediately.

## Indemnity

The Customer agrees to indemnify and hold Enablix, its subsidiaries, affiliates, officers, agents, employees, advertisers, and partners harmless from and against any and all claims, liabilities, damages (actual and consequential), losses and expenses (including legal and other professional fees) arising from or in any way related to any third party claims relating to the Customer's use of any of the Services (including all actions taken under the Customer's account). In the event of such claim, Enablix will provide notice of the claim, suit or action to the contact information that Enablix has for the Customer, provided that any failure to deliver such notice to you shall not eliminate or reduce your indemnification obligation hereunder.

## Limitation of Liability

TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL ENABLIX, ITS AFFILIATES, OFFICERS, EMPLOYEES, AGENTS, SUPPLIERS OR LICENSORS BE LIABLE FOR (A) ANY INDIRECT, SPECIAL INCIDENTAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL (INCLUDING LOSS OF USE, DATA, BUSINESS, OR PROFITS) DAMAGES, REGARDLESS OF LEGAL THEORY, WHETHER OR NOT ENABLIX HAS BEEN WARNED OR THE POSSIBILITY OF SUCH DAMAGES, AND EVEN IF A REMEDY FAILS OF ITS ESSENTIAL PURPOSE; (B) AGGREGATE LIABILITY FOR ALL CLAIMS RELATING TO THE SERVICES MORE THAN THE GREATER OF \$20 OR THE AMOUNTS PAID BY THE CUSTOMER TO ENABLIX FOR THE PAST THREE MONTHS OF THE SERVICES IN QUESTION. Some states do not allow the types of information in this paragraph, so they may not apply to you. Enablrix is Available "As Is".

THE CUSTOMER EXPRESSLY UNDERSTANDS AND AGREES THAT:

- (a) CUSTOMER'S USE OF THE SERVICES IS AT THE CUSTOMER'S SOLE RISK. THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. TO THE MAXIMUM EXTENT PERMITTED BY LAW, ENABLIX EXPRESSLY DISCLAIMS ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT.
- (b) ENABLIX DOES NOT WARRANT THAT (i) THE SERVICES WILL MEET ALL OF YOUR REQUIREMENTS; (ii) THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE; OR (iii) ALL ERRORS IN THE SOFTWARE OR SERVICES WILL BE CORRECTED.
- (c) ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS DONE AT THE CUSTOMER'S OWN DISCRETION AND THE RISK AND THAT THE CUSTOMER IS SOLELY RESPONSIBLE FOR ANY DAMAGE TO THE CUSTOMER'S COMPUTER OR OTHER DEVICE OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.
- (d) NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY THE CUSTOMER FROM ENABLIX THROUGH OR FROM THE SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THESE TERMS OF SERVICE.

## Governing Law

THESE TERMS AND THE USE OF THE SERVICES AND SOFTWARE WILL BE GOVERNED BY VIRGINIA LAW EXCEPT FOR ITS CONFLICTS OF LAWS PRINCIPLES. ALL CLAIMS ARISING OUT OF OR RELATING TO THESE TERMS OR THE SERVICES OR SOFTWARE MUST BE LITIGATED EXCLUSIVELY IN THE FEDERAL OR STATE COURTS OR LOUDOUN COUNTY, VIRGINIA, AND BOTH PARTIES CONSENT TO THE VENUE AND PERSONAL JURISDICTION THERE.

These Terms constitute the entire and exclusive agreement between the Customer and Enablrix with respect to the Services, and supersedes and replaces any other agreements, terms and conditions applicable to the Services. These Terms create no third party beneficiary rights.

Enablix's failure to enforce a provision is not a waiver of its right to do so later. If a provision is found enforceable the remaining provisions of the Agreement will remain in full effect and an enforceable term will be substituted reflecting Enablix's intent as closely as possible. The Customer may not assign any of the Customer's rights in these Terms, and any such attempt is void, but Enablix may assign its rights to any of its affiliates or subsidiaries, or to any successor in interest of any business associated with the Services. Enablix and the Customer are not legal partners or agents; instead, our relationship is that of independent contractors.