

TERMS OF SERVICE

Please read the following terms of service (the "Terms") carefully which govern use of the Threshold 360 platform made available by Threshold 360, Inc. ("Threshold 360", "We", "Us") to subscribers ("Customer(s)") who have entered into a service order with Threshold 360 subject to these Terms (a "Service Order"). Together these Terms and the Service Order entered into by Customer constitute the "Agreement" between Customer and Threshold 360.

1. DEFINITIONS.

1.1 "API" means an application programming interface in a form specified and provided by Threshold 360 that provides access to photographs, content and other functionality related to the on-premise information and content collected by Threshold 360 ("**Threshold 360 Content**").

1.2 "Customer Agreement" means the Terms of Use and Privacy Policy made available on the Company Website.

1.3 "Company Website" means a website owned and operated by Company on which the Widget will be made available.

1.4 "Intellectual Property" means all algorithms, application programming interfaces (APIs), software code (in any form including source code and executable or object code), user interfaces, concepts, databases and data collections, subroutines, designs, diagrams, documentation, drawings, flow charts, ideas and inventions (whether or not patentable or reduced to practice), know-how, materials, marketing and development plans, marks (including brand names, product names, logos and slogans), methods, models, network configurations and architectures, procedures, processes, protocols, schematics, specifications, subroutines, techniques, tools, trademarks, uniform resource identifiers including uniform resource locators (URLs), web pages, web sites, works of authorship, and other forms of technology.

1.5 "Intellectual Property Rights" means all past, present, and future rights of the following types, which may exist or be created under the laws of any jurisdiction in the world: (a) rights associated with works of authorship, including exclusive exploitation rights, copyrights, moral rights, and mask work rights; (b) trademark and trade name rights and similar rights; (c) trade secret rights; (d) patent and industrial property rights; (e) other proprietary rights in Intellectual Property of every kind and nature; and (f) rights in or relating to registrations, renewals, extensions, combinations, divisions, and reissues of, and applications for, any of the rights referred to in clauses (a) through (e) of this sentence.

1.6 "End User" means an individual who accesses the Company Website.

1.7 "Threshold 360 Content" means the on-premise photos and other content that allows an End User to virtually step inside of a given location and related data made available through the API.

1.8 "Threshold 360 Property" means the Threshold 360 Technology, Threshold 360 Content, and any content or information provided by Threshold 360 to Company under this Agreement. For the avoidance of doubt, Threshold 360 Property does not contain any Company Confidential Information.

1.9 "Threshold 360 Services" means the provision of access to the Threshold 360 Technology in order to access the Threshold 360 Content.

1.10 "Threshold 360 Technology" means (a) the API and any software programs, hardware, technology, and other Intellectual Property owned or licensed by Threshold 360 that is related to or used in connection with Threshold 360's provision of the API or related services; (b) any Intellectual Property, in any stage of development, that Threshold 360 creates, authors, develops, conceives, or reduces to practice while Threshold 360 is performing its duties under this Agreement, and (c) any other Intellectual Property developed, acquired, licensed, or otherwise obtained by Threshold 360 prior to or independently of this Agreement.

1.11 "Threshold 360 Website" means the Threshold 360 website available at www.threshold360.com.

1.12 "Widget" means the software code developed by Threshold 360 that creates an interface enabling API requests to originate on the Company Website.

2. WIDGET.

2.1 Development and Implementation. Threshold 360 will provide the Company access to the Threshold 360 API to integrate Threshold 360 Content on the Company Website. Threshold 360 will also provide the Company access to a web-based tool to build a Widget to embed collections of Threshold 360 Content on the Company Website. Threshold 360 will provide Company with embed code for the Widget so that Company may embed the Widget within the Company Website.

2.2 License. Consistent with the terms and conditions of this Agreement, Threshold 360 hereby grants to Company a nonexclusive, non-transferable, royalty-free, worldwide license to (i) display the Threshold 360 Content on the Company Website as displayed through the Widget; (ii) embed the Widget in the Company Website; (iii) access and use the API as necessary to facilitate End Users' ability to access, search, and share information and content relating to Threshold 360 immersive experiences through the Widget; (iv) access and use the Threshold 360 Technology to export the "auto-play", non-interactive components of the Threshold 360 Content to social media and other content aggregating platforms; and, if included in the Service Order, (v) upload the on-premise still photos of Threshold 360 Content to web mapping services, such as Google Maps. Company will not remove any copyright notices or other proprietary markings from any Threshold 360 Content. The license granted hereunder may not be sublicensed by Company. Except for the license granted hereunder, Threshold 360 retains all right, title and interest in and to the Threshold 360 Content and Threshold 360 Technology.

2.3 Modification. Company may modify the presentation of the Threshold 360 Content solely as necessary to allow it to display the Threshold 360 Content in a manner consistent with the design, look and feel of the Widget. Company may not modify use, copy, repackage or distribute the Threshold 360 Content in any manner not expressly permitted by this Agreement.

2.4 Format and Access. Threshold 360 will make the Threshold 360 Content available to Company in an electronic format specified by Threshold 360. Company may access the Threshold 360 Content by using the API and the unique code(s) assigned to Company

("API Keys"), solely from the Widget. If Threshold 360 issues Company updated API Keys, after no more than 5 days following Company's receipt of the updated API Keys, Company will use only the new API Keys.

2.5 API Restrictions. Company will exercise reasonable efforts to prevent any unauthorized use or disclosure of the API or the API Keys. Company will not provide access to the API or the API Keys to any third party. Company will notify Threshold 360 promptly upon the discovery of any unauthorized use of its API Key. Company will not, and will not attempt to, reverse engineer any interface or functionality of Threshold 360 servers or Threshold 360 Services. Company will not, and will not attempt to, access or make available to End Users any interface or functionality of Threshold 360 servers or Threshold 360 Services not expressly included in the API or otherwise documented by Threshold 360 for use in accordance with this Agreement.

2.6 Updates; Refreshes. Company shall use reasonable commercial efforts to (a) ensure that the Threshold 360 Content is current and accurate; and (b) display, distribute, or make available to any End User, in connection with any display, distribution or making available of any Threshold 360 Content to an End User, a hyperlink to the Threshold 360 Website. Notwithstanding the foregoing, Threshold 360 does not guarantee coverage of Threshold 360 Content for a given location or for a percentage of coverage of locations.

2.7 Support. Threshold 360 shall provide Company with one telephone or online training session regarding use of the Widget and API and Company's questions in connection therewith. The time and date of such training session is to be mutually agreed upon by the Parties. During the Term, Threshold 360 shall provide Company with telephone and email support during Threshold 360's normal business hours.

2.8 End Users. End Users may access the Widget on the Company Website subject to Company's Terms of Use ("Terms of Use").

2.9 Attribution. Company shall include "Powered by Threshold 360" or similar attribution in a prominent position in the Widget and elsewhere on the Company website pursuant to the guidelines provided by Threshold 360 such that Customers and End Users would recognize Threshold 360 as the source of the Threshold 360 Content.

3. IP LICENSES

3.1 Licenses. Subject to the terms and conditions of this Agreement, Threshold 360 hereby grants to Company a limited, non-exclusive, non-sublicensable, royalty-free, worldwide license to use Threshold 360's trademarks, service marks, trade names, logos or other commercial or product designations (collectively, "Marks") solely for the purposes of branding the Widget and/or Threshold 360 Content. Company's use of Threshold 360's Marks will comply with the Threshold 360 Trademark Guidelines provided by Threshold 360, as they may be amended from time to time. Threshold 360 may terminate the foregoing license if, in its sole discretion, the Company's use of the Marks does not conform to Threshold 360's guidelines. Title to and ownership of the Marks will remain with Threshold 360. Company will not take any action inconsistent with Threshold 360's ownership of the Marks and any benefits or goodwill arising from use of such Marks will automatically vest in Threshold 360.

3.2 Use of Company Name or Logo. Threshold 360 may include Company's name, and the logo, on the Threshold 360 Website as part of a list of companies using the Threshold 360 Services.

4. PAYMENTS.

4.1 Fees. Company shall pay the licensing, implementation, development, and support fees set forth in the Service Order. All Fees are exclusive of taxes, and Company will be responsible for paying any taxes arising from the performance of this Agreement other than taxes on Threshold 360's net income.

4.2 Expenses. Company shall reimburse Threshold 360 for all reasonable pre-approved in writing out-of-pocket expenses ("Expenses") that are requested by Company and incurred by Threshold 360 in the performance of additional services, including but not limited to special on-site training sessions, travel, meals, and lodging expenses, and supplemental material and supply costs, within 30 days after Company's receipt of expense statements including appropriate receipts or other evidence of the expense.

5. TERM AND TERMINATION.

5.1 Term. This Agreement shall be effective as of the date the Service Order was signed and shall continue for a period equal to the greater of (a) one (1) year after the date the Service Order was signed or (b) the expiration date referenced in the Service Order ("Initial Term"). The Agreement will automatically extend for additional one (1) year periods ("Renewal Term" and together with the Initial Term, the "Term"), subject to the payment of the Fees, as set forth in the Service Order, unless and until either Party provides the other Party with written notice of its intent not to renew within thirty (30) days of the expiration of the then-current Renewal Term.

5.2 Termination. Except as otherwise provided for herein, either Party may terminate this Agreement if the other Party materially breaches the Agreement and such breach remains uncured for thirty (30) days following the breaching Party's receipt of written notice of the breach.

5.3 Effect of Termination. Upon termination or expiration of this Agreement, all licenses granted hereunder will terminate and the API Key will be deactivated. Sections 1, 4 (to the extent any amounts payable to Threshold 360 that have become due remain unpaid on the date of termination or expiration), 5.3, 6, 7, 8, 9, 10, and 11 will survive termination or expiration of this Agreement. Upon termination or expiration of this Agreement, Company will pay all Fees and Expenses accrued prior to the effective date of termination in accordance with the terms of this Agreement.

6. WARRANTY.

6.1 Widget and API Warranty. Threshold 360 warrants that the Widget and API will operate substantially as described in the applicable documentation. Company will report a breach of this warranty to Threshold 360 in writing within a reasonable time after discovery; provided, however, that in no event will Threshold 360 be liable under this Section 6.1 if Company does not notify Threshold 360 of the breach within thirty (30) days following Company's discovery of the breach. As Company's sole and exclusive remedy and Threshold 360's entire liability and sole obligation for breach of the warranty in this Section 6.1, Threshold 360 will, at no charge to Company, use commercially reasonable efforts to correct any reproducible error in the API reported to Threshold 360 by Company in writing.

6.2 DISCLAIMERS. EXCEPT FOR THE EXPRESS WARRANTIES CONTAINED IN THIS AGREEMENT, THE WIDGET, THE API, THE THRESHOLD 360 CONTENT, AND ALL SERVICES PROVIDED BY THRESHOLD 360 UNDER THIS AGREEMENT ARE PROVIDED "AS IS" AND ON AN "AS AVAILABLE BASIS." THRESHOLD 360 DOES NOT MAKE, AND HEREBY DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND OR NATURE, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF OPERABILITY, CONDITION, TITLE, NON-INFRINGEMENT, NON-INTERFERENCE, QUIET ENJOYMENT, VALUE, ACCURACY OF DATA OR THRESHOLD 360 CONTENT, OR QUALITY, AS WELL AS ANY WARRANTIES OF MERCHANTABILITY, SYSTEM INTEGRATION, WORKMANSHIP, SUITABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR THE ABSENCE OF ANY DEFECTS THEREIN, WHETHER LATENT OR PATENT. FURTHER, THRESHOLD 360 DOES NOT GUARANTEE AND DOES NOT MAKE, AND HEREBY SPECIFICALLY DISCLAIMS, ALL WARRANTIES RELATING TO THRESHOLD 360 CONTENT, INCLUDING THAT ANY THRESHOLD 360 CONTENT FOR A GIVEN LOCATION OR LOCATIONS IS ACCURATE, UP TO DATE, AND/OR HAS NOT CHANGED OR WILL NOT CHANGE. TO THE EXTENT THAT THRESHOLD 360 MAY NOT DISCLAIM ANY WARRANTY AS A MATTER OF APPLICABLE LAW, THE SCOPE AND DURATION OF SUCH WARRANTY WILL BE THE MINIMUM PERMITTED UNDER SUCH LAW. EACH PARTY ACKNOWLEDGES THAT IT HAS RELIED ON NO WARRANTIES OTHER THAN THE EXPRESS WARRANTIES IN THIS AGREEMENT AND THAT EACH PARTY'S OBLIGATIONS UNDER THIS AGREEMENT ARE FOR THE BENEFIT OF THE OTHER PARTY ONLY.

7. OWNERSHIP.

7.1 Threshold 360 Property. Threshold 360 and its licensors shall retain all rights, title and interest in and to all Intellectual Property Rights embodied in or associated with any Threshold 360 Property. Except for the license rights expressly set forth in this Agreement, Company shall have no rights in such Threshold 360 Property.

8. INDEMNIFICATION.

8.1 Indemnity. Threshold 360 will defend at its own expense any action against Company brought by a third party to the extent that the action is based upon a claim that the Threshold 360 Property (excluding End User-generated or third-party content) infringes any patent, copyright, or trademark or misappropriates any trade secret, and Threshold 360 will pay those costs and damages finally awarded against Company in any such action that are specifically attributable to such claim or those costs and damages agreed to in a monetary settlement of such action. Company will promptly notify Threshold 360 in writing of such action, give Threshold 360 sole control of the defense thereof and any related settlement negotiations, and cooperate with Threshold 360 and, at Threshold 360's request and expense, assist in such defense. Threshold 360 will not settle any infringement claim without the prior written approval of Company and Company will not unreasonably withhold or delay such approval. In the event of an infringement claim or if such a claim seems likely, Threshold 360 may, at its option, either (i) procure for Company the right to continue using the allegedly infringing Threshold 360 Property or (ii) replace or modify the allegedly infringing portion of the Threshold 360 Property so that it becomes non-infringing. If Threshold 360 determines that none of these alternatives are reasonably available, Threshold 360 shall have the right to terminate this Agreement, and in the event of such termination, Threshold 360 will refund all amounts prepaid by Company under this Agreement for the affected Threshold 360 Property for the then-current term. Notwithstanding the foregoing, Threshold 360 will have no obligation under this Section or otherwise with respect to any infringement claim to the extent said infringement claim is based upon Company's use of Threshold 360 Property not in accordance with this Agreement or any modification of Threshold 360 Property by Company in breach of this Agreement. THIS SECTION 8.1 STATES THRESHOLD 360'S ENTIRE LIABILITY AND COMPANY'S SOLE AND EXCLUSIVE REMEDY FOR INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS AND ACTIONS.

8.2 Procedures. The indemnification obligations set forth above are conditioned on the Company: (i) promptly notifying Threshold 360 of any claim which may be subject to an indemnification obligation; (ii) granting Threshold 360 sole control over the defense and/or settlement of any such claim; and (iii) assisting Threshold 360 as requested and at the Threshold 360's sole expense.

9. CONFIDENTIAL INFORMATION; PUBLICITY.

9.1 Confidential Information. "Confidential Information" means any and all technical and non-technical information or data related to the past, current, future or proposed operations, products, technology, services and business of a Party ("**Disclosing Party**") that Disclosing Party discloses to the other Party ("**Recipient**") or to which Recipient gains access as the result of this Agreement. Notwithstanding the foregoing, Confidential Information does not include any information that Recipient can establish through its written records: (a) was in Recipient's possession prior to being furnished to Recipient, provided the source of that information was not bound by any obligation of confidentiality; (b) is now, or hereafter becomes, through no act or failure to act on the part of Recipient, generally known to the public; (c) is rightfully obtained by the Recipient from a third party, without any obligation of confidentiality or non-disclosure; or (d) is developed by employees of Recipient who had no access to Disclosing Party Confidential Information. Recipient agrees to use the Confidential Information of Disclosing Party solely to the extent necessary to fulfill its obligations or exercise its rights hereunder, and not for any other purpose. Recipient may disclose Confidential Information only to (i) third parties authorized by Disclosing Party to receive such Confidential Information, and (ii) Recipient's and its Affiliates' employees and contractors with a reasonable need to know such Confidential Information in order for Recipient to fulfill its obligations and/or exercise its rights hereunder who are subject to written obligations of confidentiality consistent with the terms of this Section. Recipient will treat the Confidential Information of Disclosing Party with the same degree of care as it accords its own Confidential Information of similar nature, and in no event will it use less than reasonable care. Notwithstanding the foregoing, Recipient may disclose the Disclosing Party's Confidential Information to the extent required by law or by order of a court or other governmental body or agency, provided that Recipient uses reasonable efforts to notify Disclosing Party of such obligation in advance so as to enable Disclosing Party a reasonable opportunity to object to such disclosure. Any violation or threatened violation of this Section 9 may cause irreparable injury to the Disclosing Party, entitling the Disclosing Party to seek injunctive relief in addition to all legal remedies.

9.2 End User Information Exception. Notwithstanding the foregoing, Confidential Information does not include End User Information. Company understands and acknowledges that when End Users submit End User Information to the Threshold 360 Website, or when Company or End User provides End User Information through the API, such End User Information will be used to facilitate the End User's ability to search access and share immersive experiences through the Threshold 360 Services. THRESHOLD 360 HAS NO POWER TO INFLUENCE OR CONTROL, AND IS IN NO WAY LIABLE FOR, ANY RELATIONSHIP THAT MAY BE ESTABLISHED OR ACTIVITIES UNDERTAKEN BY ANY END USER THROUGH THE THRESHOLD 360 SERVICES OR AS A RESULT OF INFORMATION OBTAINED THROUGH THE THRESHOLD 360 WEBSITE.

9.3 Publicity. Neither Party will originate any publicity, news release, technical article, advertising or other announcement, written or oral, whether to the public press or otherwise (each, an **"Announcement"**), relating to performance under this Agreement or the existence of this Agreement between the Parties, except where the announcing Party has obtained the prior written consent of the other Party.

10. LIMITATION OF LIABILITY.

UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE OR RESPONSIBLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, WHETHER FORESEEABLE OR UNFORESEEABLE, WHICH SUCH PARTY MAY INCUR, EXPERIENCE OR CLAIM (INCLUDING, BUT NOT LIMITED TO, CLAIMS FOR LOSS OF DATA, GOODWILL, PROFITS, USE OF MONEY OR USE OF DELIVERABLES, INTERRUPTION IN USE OR AVAILABILITY OF DATA, LOST BUSINESS, LOST OPPORTUNITY, WORK STOPPAGE OR OTHER IMPAIRMENT OF ASSETS) ARISING OUT OF ANY ALLEGED BREACH OF EXPRESS OR IMPLIED WARRANTY, BREACH OF CONTRACT, MISREPRESENTATION, NEGLIGENCE, STRICT LIABILITY IN TORT OR OTHERWISE, ON ACCOUNT OF ENTERING INTO OR RELYING ON THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EACH PARTY'S TOTAL, CUMULATIVE, AGGREGATE LIABILITY FOR ALL CLAIMS UNDER THIS AGREEMENT FROM ANY AND ALL CAUSES SHALL BE LIMITED TO AND SHALL NOT EXCEED THE AMOUNT OF FEES ACTUALLY PAID BY COMPANY DURING THE TWELVE-MONTH PERIOD PRIOR TO THE EVENT GIVING RISE TO SUCH CLAIM, REGARDLESS OF THE FORM IN WHICH ANY LEGAL OR EQUITABLE ACTIONS MAY BE BROUGHT, AND ANY SUCH DAMAGES SHALL CONSTITUTE EACH PARTY'S SOLE AND EXCLUSIVE REMEDY.

11. GENERAL PROVISIONS.

11.1 Governing Law. The validity, construction, interpretation and performance of this Agreement shall be governed by and construed in accordance with the domestic laws of the state of Delaware without reference to conflict of laws principles. The parties hereby agree to the exclusive jurisdiction of the Federal and state courts sitting in the state of Delaware.

11.2 Severability. If a court of competent jurisdiction deems any provision of this Agreement invalid, such provisions shall be enforced to the maximum extent permitted and the remaining provisions of this Agreement shall remain in full force and effect.

11.3 Waiver. No term or provision of this Agreement shall be deemed waived and no breach excused, unless such waiver or excuse is in writing signed by the party granting such waiver or excusing such breach. No consent to, or waiver of, a breach, whether express or implied, shall constitute a consent to, waiver of, or excuse for any other different or subsequent breach by such Party.

11.4 Headings. Headings used in this Agreement are for reference purposes only and in no way define, limit, construe or describe the scope or extent of such section or in any way affect this Agreement.

11.5 Assignment. Threshold 360 shall have the right to assign this Agreement or delegate any of its duties hereunder without prior consent from you. Customer may not assign this Agreement without the prior written consent of Threshold 360. Subject to the foregoing, this Agreement shall inure to the benefit of and be binding upon each of the Parties and their respective successors and permitted assigns.

11.6 Independent Contractors. Threshold 360 and Company are acting as independent contractors, and nothing in these terms and conditions will be construed as creating an employer-employee relationship, partnership, or joint venture between them.

11.7 Force Majeure. Threshold 360 shall not be responsible for any delay or failure in performance of any part of this Agreement to the extent that such delay or failure is caused by fire, flood, explosion, war, embargo, government requirement, civil or military authority, act of God, act or omission of carriers or other similar causes beyond its control. If any such an event of force majeure occurs, The Threshold 360 shall provide you with written notice.

11.8 Notices. Any notices required or permitted hereunder shall be given to the appropriate Party at the address specified in the signature block by the Party or at such other address as the Party shall specify in writing. Such notice shall be deemed given: upon personal delivery; or if sent by certified or registered mail, postage prepaid, return receipt requested, 5 days after the date of mailing.

11.9 Counterparts. This Agreement may be executed in counterparts, each of which will be considered an original, but all of which together will constitute the same instrument.

11.10 Compliance with Laws. Each Party to this Agreement shall comply with all applicable federal, state, local, and foreign laws, rules and regulations and shall obtain all necessary permits or licenses that may be required to perform the obligations set forth in this Agreement.

11.11 Entire Agreement. This Agreement constitutes the entire agreement between the Parties regarding the subject hereof and supersedes all prior or contemporaneous agreements, understandings, and communication, whether written or oral. This Agreement may be amended only by a written document signed by both Parties.