

Threshold 360, Inc.

Master Platform and Subscription Agreement

PLEASE READ THIS MASTER PLATFORM **AND SUBSCRIPTION AGREEMENT** (THE “**AGREEMENT**”) CAREFULLY. THE THRESHOLD 360 PLATFORM (AS DEFINED BELOW) AND ANY OTHER WEBSITES OR OTHER ONLINE PLATFORMS OF THRESHOLD 360, INC., ITS AFFILIATES OR AGENTS AND THE THRESHOLD 360 CONTENT (AS DEFINED BELOW) ON IT ARE CONTROLLED BY THRESHOLD 360, INC. (“**THRESHOLD 360**”). THIS AGREEMENT GOVERNS THE USE OF THE PLATFORM AND CONTENT, AND APPLIES TO ALL USERS ACCESSING OR USING THE PLATFORM IN ANY WAY, INCLUDING USING THE SERVICES AND RESOURCES AVAILABLE OR ENABLED VIA THE PLATFORM. BY CLICKING ON THE “I ACCEPT” BUTTON, YOU REPRESENT THAT (1) YOU HAVE READ, UNDERSTAND, AND AGREE TO BE BOUND BY THE AGREEMENT, (2) YOU ARE OF LEGAL AGE TO FORM A BINDING CONTRACT WITH THRESHOLD 360, AND (3) YOU HAVE THE AUTHORITY TO ENTER INTO THE AGREEMENT ON BEHALF OF THE COMPANY YOU HAVE NAMED AS THE USER, AND TO BIND THAT THRESHOLD 360 TO THE AGREEMENT. THE TERM “**CUSTOMER**” AS USED IN THIS AGREEMENT REFERS TO THE LEGAL ENTITY IDENTIFIED AS THE CUSTOMER ACCOUNT HOLDER ON THE PLATFORM

1. **USE OF THE SERVICES.** Subject to Customer’s payment of the fees (“**Fees**”) agreed to in Threshold 360’s standard order form affirmed by the parties (“**Order Form**”) and any restrictions set forth on any such Order Form(s), Threshold 360 grants to Customer the right to access and use the Threshold 360 software and related technology platform (the “**Platform**”) comprising the following features and functions (collectively, referred to herein as the “**Services**”) ordered pursuant to the Order Form, solely for its business purposes and solely in accordance with the user guide or other information or documentation provided or otherwise made available to Customer for use with the Services (“**Documentation**”): (a) the application programming interface and related links (“**API**”) that provide access to imagery, videos, location content, and various additional functionality related to the on-premise information and other content created, collected or otherwise provided by Threshold 360 in connection with the Platform or otherwise (“**Threshold 360 Content**”), (b) the Threshold 360 Viewer, Threshold 360 Map, and other components that (i) create an interface enabling API requests to originate from Customer’s website (“**Customer Website**”) or other Platforms as specifically supported by Threshold 360 and (ii) enable end users of such Customer Website or Platforms (“**End Users**”) to view and/or interact with Threshold 360 Content (“**Threshold 360 Components**”), and (c) web-based tools designed to allow configuration of the Threshold 360 Components to enable Customer to embed the Threshold 360 Content on the Customer Website (“**Configuration Tools**”).

1.1 In connection with the foregoing and subject to the terms and conditions of this Agreement, including terms on the applicable Order Form, Threshold 360 hereby grants to Customer a nonexclusive, non-transferable, royalty-free, worldwide license to (i) display the Threshold 360 Content on the Customer Website and other Platforms as displayed through the Threshold 360 Components; (ii) embed such Threshold 360 Components in the Customer Website; and (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 Threshold 360 Components. In the event Threshold 360 grants to Customer the right and license to create and use derivative image and video content based on the Threshold Content (“**Derivative Content**”), the terms of such rights and license shall be set forth in the applicable Order Form. Customer shall have no right to create, develop or use Derivative Content without Threshold 360’s prior written consent as set forth in an Order Form. Except as set forth otherwise in the applicable Order Form, Customer may use the Threshold 360 Content solely in connection with its use of the Threshold 360 Platform and related Services. Customer will not remove any copyright notices or other proprietary markings from any Threshold 360 Content. The license granted hereunder may not be sublicensed by Customer. Except for the license granted hereunder, Threshold 360 retains all right, title and interest in and to the Platform, Threshold 360 Content and Services.

1.2 **Provision of Access.** Following the grant of a Trial or payment of the applicable Fees, Threshold 360 will provide Customer with access protocols necessary to access the Platform and Services, including unique code(s) assigned to Customer to access the API (“**API Keys**”) from the Threshold 360 Components. If Threshold 360 issues Customer updated API Keys, after no more than five (5)

days following Customer's receipt of the updated API Keys, Customer will use only the new API Keys.

### 1.3 **Restrictions on Use of the Services.**

- a. **Restrictions.** The rights granted to Customer in this Agreement are subject to the following restrictions: (a) Customer shall not license, sublicense, sell, rent, lease, transfer, assign, reproduce, distribute, host or otherwise commercially exploit any portion of the Services except as explicitly identified by Threshold on the Order Form, (b) Customer shall use any trademark or logo (including images, text, page layout or form) of Threshold 360 without Threshold 360's prior written consent; (c) Customer shall not use any metatags or other "hidden text" using Threshold 360's name or trademarks; (d) Customer shall not modify, translate, adapt, merge, make derivative works of, disassemble, decompile, reverse compile or reverse engineer any part of the Services (including Threshold 360 Content), except to the extent the foregoing restrictions are expressly prohibited by applicable law, and provided that Threshold 360 acknowledges and agrees Customer may modify the presentation of 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 Threshold 360 Components; (e) Customer shall not use any manual or automated software, devices or other processes (including but not limited to spiders, robots, scrapers, crawlers, avatars, data mining tools or the like) to "scrape" or download data from any web pages contained in the Services (except that Threshold 360 grants the operators of public search engines revocable permission to use spiders to copy materials made available through the Services for the sole purpose of and solely to the extent necessary for creating publicly available searchable indices of the materials, but not caches or archives of such materials); (f) Customer shall not access the Services in order to build a similar or competitive website, platform or service; (g) except as expressly stated herein, no part of the Services may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means;; and (h) Customer shall not use the Services to collect, harvest, transmit, distribute, post or submit any information concerning any other person or entity, including without limitation, photographs of others without their permission, personal contact information or credit, debit, calling card or account numbers. Any future release, update or other addition to the Services provided to Customer by Threshold 360, at its discretion, shall be subject to this Agreement. Any unauthorized use of the Services (including the Threshold 360 Content) automatically terminates the licenses granted by Threshold 360 pursuant to this Agreement.
- b. **API-Specific Restrictions.** Customer will exercise reasonable efforts to prevent any unauthorized use or disclosure of the API or the API Keys. Customer will not provide access to the API, the API Keys, or related embed software codes to any third party. Customer will notify Threshold 360 promptly upon the discovery of any unauthorized use of its API Key, API, or embed codes. Customer will not, and will not attempt to, reverse engineer any interface or functionality of Threshold 360 servers or Threshold 360 Services. Customer 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.

1.4 **Updates.** You understand that the Services are evolving. As a result, Threshold 360 may require you to accept updates to the Services that you have installed on your computer or mobile device. You acknowledge and agree that Threshold 360 may update the Services with or without notifying you. You may need to update third-party software from time to time in order to continue to use Services.

1.5 **Third-Party Materials.** As a part of the Services, Customer may have access to materials that are hosted by another party. Customer agrees that it is impossible for Threshold 360 to monitor such materials and that Customer accesses these materials at Customer's own risk.

1.6 **Necessary Equipment.** Customer must provide all equipment and software necessary to connect to Services, including but not limited to, a internet service that is suitable to connect with and use Services. Specifically, Customer must ensure that their Internet browser correctly supports

WebGL. You are solely responsible for any fees, such as Internet connection or mobile fees, that you incur when accessing the Services. A complete list of recommended hardware and software minimums is available via the Threshold website at <http://www.threshold360.com/hardwarerequirements>

- 1.7 **Feedback.** Customer acknowledges and agrees that any feedback, comments or suggestions Customer may provide to Threshold 360 regarding Threshold 360 or the Services is entirely voluntary and Threshold 360 is free to use such feedback, comments or suggestions as Threshold 360 sees fit without restriction and without any obligation or remuneration to Customer.
- 1.8 **Marketing.** Threshold 360 may use and display Customer's name, logo, trademarks, and service marks on Threshold 360's website and in Threshold 360's marketing materials in connection with identifying Customer as a customer of Threshold 360.

2. **CUSTOMER ACCOUNT.** To access the Platform and use the Services, Customer must register for an account with Threshold 360 ("**Account**") and provide certain information about Customer as prompted by the Services registration form. Customer represents and warrants that: (a) all required registration information Customer submits is truthful and accurate; (b) Customer will maintain the accuracy of such information; and (c) Customer's use of the Services does not violate any applicable law, rule or regulation (e.g., Customer is not located in an embargoed country or are not listed as a prohibited or restricted party). Customer is responsible for maintaining the confidentiality of Customer's Account login information and is fully responsible for all activities that occur under Customer's Account, including the activities of its authorized users. Customer agrees to immediately notify Threshold 360 of any unauthorized use, or suspected unauthorized use, of Customer's Account or any other breach of security. Threshold 360 cannot and will not be liable for any loss or damage arising from Customer's failure to comply with the above requirements. Notwithstanding anything to the contrary herein, Customer acknowledges and agrees that Customer shall have no ownership or other property interest in Customer's Account, and Customer further acknowledges and agrees that all rights in and to Customer's Account are and shall forever be owned by and inure to the benefit of Threshold 360.

### 3. CONFIDENTIAL INFORMATION AND END-USER INFORMATION

- 3.1 **Confidential Information.** During the term of this Agreement, Customer may have access to certain non-public information regarding Threshold 360's business, technology, products, or services that is marked or designated by Threshold 360 as "confidential" or "proprietary" at the time of disclosure or that reasonably would be understood to be confidential given the circumstances of disclosure (collectively, "**Confidential Information**"). Without limiting the generality of the foregoing, the Services, Platform, Software, and all enhancements and improvements thereto will be considered the Confidential Information of Threshold 360. Customer agrees that it will not use or disclose to any third party any Confidential Information, except to the extent necessary to use the Services as authorized hereunder. In addition, the Customer will protect the Confidential Information of Threshold 360 from unauthorized use, access, or disclosure in the same manner that it protects its own proprietary information of a similar nature, but in no event with less than reasonable care. At Threshold 360's request or upon termination of this Agreement, Customer will return to Threshold 360 or destroy (or permanently erase in the case of electronic files) all copies of the Confidential Information.
- 3.2 **End User Information.** Data or information submitted or otherwise provided by End Users ("**End User Information**") is not considered confidential information. Customer understands and acknowledges that if and when End Users submit End User Information to the Threshold 360 Platform or website, or when Customer 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 PLATFORM OR WEBSITE.

#### 4. CONTENT CAPTURE

- 4.1 **Capture Scheduling.** Customer acknowledges that, pursuant to products and services ordered from Threshold on the applicable Order Form, Threshold 360 may capture on-premise information on its behalf, potentially including imagery, video, audio, and various other location metadata. Should on-premise content capture be part of the services ordered by Customer, Threshold will work with Customer to identify the nearest-term practical dates for on-premise content capture. Customer acknowledges that, depending on such scheduling, as well as availability of Threshold staff to perform the capture, a delay may occur between the granting of Platform access and the availability of on-premise content captured by Threshold.
- 4.2 **Capture Limitations.** Customer acknowledges and agrees that Threshold will use commercially reasonable efforts with respect to the capture process, and that Threshold 360 does not make any commitment, agreement, guarantee, or representation with respect to the capture of any specific location, number of locations, or percentage of locations. Customer further understands that a variety of conditions out of Customer's control, including, for example, permanent closure, construction/obstructions, incorrect address, lack of third-party rights or clearances, seasonal closure, and extreme weather, may prevent, limit, or otherwise restrict the capture of any individual location or set of locations requested for capture by Customer.

#### 5. PROFESSIONAL AND SUPPORT SERVICES.

- 5.1 **Professional Services.** In the case that the parties have agreed to Threshold 360's provision of professional services, potentially including but not limited to implementation or customization of certain online Services ("**Professional Services**"), the details of such Professional Services will be set out in an Order Form or a mutually executed statement of work ("**SOW**"). The Order Form or SOW, as applicable, will include: (a) a description of the Professional Services; (b) the schedule for the performance of the Professional Services; and (c) the Fees applicable for the performance of the Professional Services. Each Order Form or SOW, as applicable, will incorporate the terms and conditions of this Agreement. To the extent that a conflict arises between the terms and conditions of an Order Form or SOW and the terms of this Agreement, the terms and conditions of this Agreement will govern, except to the extent that the Order Form or SOW, as applicable, expressly states that it supersedes specific language in the Agreement.
- 5.2 **Support Services.** Subject to the terms and conditions of this Agreement, Threshold 360 will exercise commercially reasonable efforts to (a) provide support for the use of the Platform to Customer, and (b) keep the Platform operational and available to Customer, in each case in accordance with its standard policies and procedures.

#### 6. OWNERSHIP.

- 6.1 **Threshold 360 Content and Other Items.** Other than Customer Content (as defined below), Customer agrees that the Platform, Threshold 360 Content, Threshold 360 Components and Services, including, without limitation, the trademarks, tradenames, logos, content, works of authorship and other materials therein, are the sole and exclusive property of the Threshold 360 and its licensors.
- 6.2 **Customer Content.** As used in this Agreement, "**Customer Content**" means any content, information, works of authorship, images, videos, data, text or other materials Customer creates or otherwise owns, and posts, uploads or otherwise makes available on or via the Services, and specifically any such Customer owned data that Customer inputs into the Platform. Threshold 360 does not claim ownership of Customer Content. Subject to the terms set forth herein, Customer hereby grants to Threshold 360 a non-exclusive, transferable, sublicensable (through multiple tiers), royalty-free, perpetual, fully paid-up right and license to reproduce, display, perform, distribute, create derivatives of, digitally transmit and otherwise use Customer Content for the purpose of providing, improving, and/or maintaining the Services and Threshold 360's other products and services. Customer agrees that Threshold 360 will have no liability for Customer's use or sharing of the Customer Content, or any portion thereof. In the event that Customer chooses to share any Customer Content (e.g., any analysis of the data, data input or output) with any third party including by providing such third party with a link to Customer Content,

Customer acknowledges and agrees that (a) Threshold 360 shall have no liability for such use of the Customer Content, and (b) while such third party will be able to view Customer Content that Customer chooses to share with them, the third party will not be able to edit, modify or otherwise change Customer Content.

## 7. FEES AND EXPENSES.

- 7.1 **Fees.** In consideration for the access rights granted to Customer and the Services performed by Threshold 360 under this Agreement, Customer will pay to Threshold 360 the Fees set forth in the applicable Order Form. Threshold 360 shall be entitled to withhold performance and discontinue the Services until all amounts due and not subject to a good faith dispute are paid in full. In addition, Customer understands and agrees that Fees are, in part, based upon Customer's usage and storage requirements and to the extent that Customer's usage and/or storage requirements exceed those used by Customer as of the date the Agreement was accepted by Customer ("**Effective Date**"), Threshold 360 reserves the right to provide thirty (30) days' notice via email or through the Services of changes to the Fees. Notwithstanding the foregoing, Customer acknowledges that Threshold 360 may impose overall usage limits and/or caps in connection with the Services, as set forth in the Order Form and/or on the Platform.
- 7.2 **Invoices.** Except as otherwise provided in an accepted Order Form, Threshold 360 will invoice Customer for the Services monthly, and Customer shall pay invoices within thirty (30) days from the date of invoice. If you select the "auto renew" feature, your subscription will continue indefinitely until terminated in accordance with this Agreement. **After your initial subscription period, and again after any subsequent subscription period, your subscription will automatically commence on the first day following the end of such period (each a "Renewal Commencement Date") and continue for an additional equivalent period, at Threshold 360's then-current price for such subscription. You agree that your Account will be subject to this automatic renewal feature unless you cancel your subscription at least (a) thirty (30) days prior to the Renewal Commencement Date, by logging into and going to the "Change/Cancel Membership" page of your "Account Settings" page.** If you do not wish your Account to renew automatically, or if you want to change or terminate your subscription, please contact Threshold 360 at support@threshold360.com. If you cancel your subscription, you may use your subscription until the end of your then-current subscription term; your subscription will not be renewed after your then-current term expires. However, you will not be eligible for a prorated refund of any portion of the subscription fee paid for the then-current subscription period. By subscribing, you authorize Threshold 360 to charge your payment provider provided at the time of subscription now, and again at the beginning of any subsequent subscription period. Upon renewal of your subscription, if Threshold 360 does not receive payment from your designated payment provider, (i) you agree to pay all amounts due on your Account upon demand, and/or (ii) you agree that Threshold 360 may either terminate or suspend your subscription and continue to attempt to charge your payment provider until payment is received (upon receipt of payment, your Account will be activated and for purposes of automatic renewal, your new subscription commitment period will begin as of the day payment was received).
- 7.3 **Taxes.** The Fees are exclusive of all applicable sales, use, value-added and other taxes, and all applicable duties, tariffs, assessments, export and import fees, or other similar charges, and Customer will be responsible for payment of all such taxes (other than taxes based on Threshold 360's revenue or income), fees, duties, and charges and any related penalties and interest, arising from the payment of the Fees, the delivery of the Services, or the license of the Platform to Customer. Customer will make all payments of Fees to Threshold 360 free and clear of, and without reduction for, any withholding taxes; any such taxes imposed on payments of Fees to Threshold 360 will be Customer's sole responsibility, and Customer will provide Threshold 360 with official receipts issued by the appropriate taxing authority, or such other evidence as Threshold 360 may reasonably request, to establish that such taxes have been paid. Customer shall indemnify and defend Threshold 360 in connection with any proceedings brought by any taxing authorities in connection with Customer's violation of this Agreement.
- 7.4 **Interest; Expenses.** Customer shall reimburse Threshold 360 for all costs and expenses that are pre-approved by Customer, if any. All costs and expenses incurred by Customer in connection herewith are the sole responsibility of Customer. Any Fees and amounts not paid when due shall bear interest at the rate of one and one half percent (1.5%) per month, or the maximum legal rate if less.

8. **THIRD-PARTY LINKS.** The Services may contain links to third-party websites (“**Third-Party Websites**”), applications (“**Third-Party Applications**”) and advertisements for third parties (“**Third-Party Ads**”). When Customer clicks on a link to a Third-Party Website, Third-Party Application or Third-Party Ad, Threshold 360 will not warn Customer that Customer has left the Services and are subject to the terms and conditions (including privacy policies) of another website or destination. Such Third-Party Websites, Third-Party Applications and Third-Party Ads are not under the control of Threshold 360. Threshold 360 is not responsible for any Third-Party Websites, Third-Party Applications or Third-Party Ads. Threshold 360 provides these Third-Party Websites, Third-Party Applications and Third Party Ads only as a convenience and does not review, approve, monitor, endorse, warrant, or make any representations with respect to Third-Party Websites, Third-Party Applications or Third-Party Ads, or their products or services. Customer uses all links in Third-Party Websites, Third-Party Applications and Third-Party Ads at Customer’s own risk. When Customer leaves the Services, Threshold 360’s terms and policies no longer govern Customer’s activities including third party products and services. Customer should review applicable terms and policies, including privacy and data gathering practices, of any Third-Party Websites or Third-Party Applications, and should make whatever investigation Customer feel necessary or appropriate before proceeding with any transaction with any third party.

## 9. INDEMNIFICATION.

9.1 **Threshold 360.** Threshold 360 will defend at its expense any suit brought against Customer, and will pay any settlement Threshold 360 makes or approves, or any damages finally awarded in such suit, insofar as such suit is based on a claim by any third party alleging that the Services infringes such third party’s patents, copyrights or trade secret rights under applicable laws of any jurisdiction within the United States of America. If any portion of the Services becomes, or in Threshold 360’s opinion is likely to become, the subject of a claim of infringement, Threshold 360 may, at Threshold 360’s option: (a) procure for Customer the right to continue using the Services; (b) replace the Services with non-infringing software or services which do not materially impair the functionality of the Services; (c) modify the Services so that it becomes non-infringing; or (d) terminate this Agreement and refund any unused prepaid Fees for the remainder of the term then in effect, and upon such termination, Customer will immediately cease all use of the Services and Documentation. Notwithstanding the foregoing, Threshold 360 will have no obligation under this Section 9.1 or otherwise with respect to any infringement claim based upon (i) any use of the Services not in accordance with this Agreement or as specified in the Documentation; (ii) any use of the Services in combination with other products, equipment, software or data not supplied by Threshold 360; or (iii) any modification of the Services by any person other than Threshold 360 or its authorized agents (collectively, the “**Exclusions**” and each, an “**Exclusion**”). This Section 9.1 states the sole and exclusive remedy of Customer and the entire liability of Threshold 360, or any of the officers, directors, employees, shareholders, contractors or representatives of the foregoing, for infringement claims and actions.

9.2 **Customer.** Customer will defend at its expense any suit brought against Threshold 360, its parents, subsidiaries, affiliates, officers and employees (“**Threshold 360 Parties**”), and will pay any settlement any Threshold 360 Party makes or approves, or any damages finally awarded in such suit, insofar as such suit is based on a claim by any third party arising out of: (a) an Exclusion; (b) Customer’s violation of this Agreement; (c) Customer’s violation of any applicable laws, rules or regulations through or related to Customer’s use of the Services; (d) Customer Content; and (e) Customer’s interaction with any third parties, including but not limited to other users or End Users with whom Customer connects through the Services.

9.3 **Indemnification Procedures.** The indemnifying party’s obligations as set forth above are expressly conditioned upon each of the foregoing: (a) the indemnified party will promptly notify the indemnifying party in writing of any threatened or actual claim or suit; (b) the indemnifying party will have sole control of the defense or settlement of any claim or suit; and (c) the indemnified party will cooperate with the indemnifying party to facilitate the settlement or defense of any claim or suit.

## 10. LIMITED WARRANTY AND DISCLAIMER OF WARRANTIES.

10.1 **Limited Warranty.** Threshold 360 represents and warrants that it will provide the Services and perform its other obligations under this Agreement in a professional and workmanlike manner substantially consistent with general industry standards. Provided that Customer notifies Threshold 360 in writing of the breach within thirty (30) days following performance of the defective Services,

specifying the breach in reasonable detail, Threshold 360 will, as Customer's sole and exclusive remedy, for any breach of the foregoing, re-perform the Services which gave rise to the breach or, at Threshold 360's option, refund the fees paid by Customer for the Services which gave rise to the breach. Threshold 360 further warrants to Customer that the Platform will operate free from reproducible failures of the Platform to substantially conform to the Documentation, provided that such warranty will not apply to failures to conform to the Documentation to the extent such failures arise, in whole or in part, from (a) any use of the Platform not in accordance with this Agreement or as specified in the Documentation; (b) any use of the Platform in combination with other products, equipment, software or data not supplied by Threshold 360; or (c) any modification of the Platform by any person other than Threshold 360 or its authorized agents. Provided that Customer notifies Threshold 360 in writing of any breach of the foregoing warranty during the Term, Threshold 360 will, as Customer's sole and exclusive remedy, provide support in accordance with its then-current support policies and procedures.

**10.2 Disclaimer of Warranties.** CUSTOMER EXPRESSLY UNDERSTANDS AND AGREES THAT EXCEPT AS EXPRESSLY SET FORTH IN SECTION 10.1, TO THE EXTENT PERMITTED BY APPLICABLE LAW, CUSTOMER'S USE OF THE SERVICES IS AT CUSTOMER'S SOLE RISK, AND THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITH ALL FAULTS. THRESHOLD 360 PARTIES EXPRESSLY DISCLAIM ALL WARRANTIES, REPRESENTATIONS, AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. THRESHOLD 360 PARTIES MAKE NO WARRANTY, REPRESENTATION OR CONDITION THAT: (1) THE SERVICES WILL MEET CUSTOMER'S REQUIREMENTS; (2) CUSTOMER'S USE OF THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE; (3) THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES WILL BE ACCURATE OR RELIABLE; OR (4) ANY ERRORS IN THE SERVICES WILL BE CORRECTED. ANY CONTENT DOWNLOADED FROM OR OTHERWISE ACCESSED THROUGH THE SERVICES IS ACCESSED AT CUSTOMER'S OWN RISK, AND CUSTOMER SHALL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO CUSTOMER'S PROPERTY OR PERSON, INCLUDING, BUT NOT LIMITED TO, CUSTOMER'S COMPUTER SYSTEM. THE SERVICES MAY BE SUBJECT TO DELAYS, CANCELLATIONS AND OTHER DISRUPTIONS. THRESHOLD 360 MAKES NO WARRANTY, REPRESENTATION OR CONDITION WITH RESPECT TO THE SERVICES, INCLUDING BUT NOT LIMITED TO, THE QUALITY, EFFECTIVENESS, REPUTATION AND OTHER CHARACTERISTICS OF SERVICES. FROM TIME TO TIME, THRESHOLD 360 MAY OFFER NEW "BETA" FEATURES OR TOOLS WITH WHICH ITS USERS MAY EXPERIMENT. SUCH FEATURES OR TOOLS ARE OFFERED SOLELY FOR EXPERIMENTAL PURPOSES AND WITHOUT ANY WARRANTY OF ANY KIND, AND MAY BE MODIFIED OR DISCONTINUED AT THRESHOLD 360'S SOLE DISCRETION. THE PROVISIONS OF THIS SECTION 10 AND ALL LIMITS ON LIABILITY APPLY WITH FULL FORCE TO SUCH FEATURES OR TOOLS.

**10.3 No Liability for Conduct of Third Parties.** CUSTOMER ACKNOWLEDGES AND AGREES THAT THRESHOLD 360 PARTIES ARE NOT LIABLE, AND CUSTOMER AGREES NOT TO SEEK TO HOLD THRESHOLD 360 PARTIES LIABLE, FOR THE CONDUCT OF THIRD PARTIES, INCLUDING BUT NOT LIMITED TO ANY OPERATORS OF EXTERNAL SITES OR ANY OTHER USERS OF THE SERVICES, AND THAT THE RISK OF INJURY FROM SUCH THIRD PARTIES RESTS ENTIRELY WITH CUSTOMER.

**11. LIMITATION OF LIABILITY.** CUSTOMER UNDERSTANDS AND AGREES THAT IN NO EVENT SHALL THRESHOLD 360 PARTIES BE LIABLE FOR ANY LOSS OF PROFITS, REVENUE OR DATA, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE SERVICES, OR DAMAGES OR COSTS DUE TO LOSS OF PRODUCTION OR USE, BUSINESS INTERRUPTION, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR PERSONAL OR PROPERTY DAMAGE OR EMOTIONAL DISTRESS, WHETHER OR NOT THRESHOLD 360 HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, ON ANY THEORY OF LIABILITY, RESULTING FROM: (1) THE USE OR INABILITY TO USE THE SERVICES; (2) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED FOR TRANSACTIONS ENTERED INTO THROUGH THE SERVICES; (3) UNAUTHORIZED ACCESS TO OR ALTERATION OF CUSTOMER'S TRANSMISSIONS OR DATA; (4) STATEMENTS OR CONDUCT OF ANY THIRD PARTY THROUGH THE

SERVICES; OR (5) ANY OTHER MATTER RELATED TO THE SERVICES, WHETHER BASED ON WARRANTY, COPYRIGHT, CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR ANY OTHER LEGAL THEORY. TO THE FULLEST EXTENT OF LAW, THRESHOLD 360'S AGGREGATE LIABILITY SHALL NOT EXCEED THE AMOUNT ACTUALLY PAID BY CUSTOMER TO THRESHOLD 360 IN THE THREE (3) MONTH PERIOD PRECEDING THE CLAIM GIVING RISE TO SUCH LIABILITY. THE LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN THRESHOLD 360 AND CUSTOMER.

## 12. REMEDIES.

**12.1 Violations.** If Threshold 360 becomes aware of any possible violations by Customer of this Agreement, Threshold 360 reserves the right to investigate such violations. If, as a result of the investigation, Threshold 360 believes that criminal activity has occurred, Threshold 360 reserves the right to refer the matter to, and to cooperate with, any and all applicable legal authorities. Threshold 360 is entitled, except to the extent prohibited by applicable law, to disclose any information or materials on or through the Services, in Threshold 360's possession in connection with Customer use of the Services, to (a) comply with applicable laws, legal process or governmental request, (b) enforce this Agreement, (c) respond to Customer requests for customer service, or (d) protect the rights, property or personal safety of Threshold 360, its users or the public, and all enforcement or other government officials, as Threshold 360 in its sole discretion believes to be necessary or appropriate.

**12.2 Breach.** In the event that Threshold 360 determines, in its sole discretion, that Customer has breached any portion of this Agreement, or have otherwise demonstrated conduct inappropriate for the Services, Threshold 360 reserves the right to: (i) Warn Customer via e-mail (to any e-mail address Customer has provided to Threshold 360) that Customer has violated this Agreement; (ii) Discontinue Customer's access to the Services; (iii) Notify and/or send content to and/or fully cooperate with the proper law enforcement authorities for further action; and/or (iv) Pursue any other action which Threshold 360 deems to be appropriate.

## 13. TERM AND TERMINATION.

**13.1 Term.** This Agreement will commence on the date of the effective date of the acceptance of an initial Order Form or as otherwise set forth in the applicable Order Form, and shall remain in full force and effect until all Order Forms and/or SOWs have expired or terminated, unless terminated earlier in accordance with this Agreement.

**13.2 Termination: Effect of Termination.** Either party may terminate this Agreement or any Order Form if the other party materially breaches this Agreement and does not cure such breach within thirty (30) days of notice of such breach from the non-breaching party. Termination of this Agreement or an Order Form includes removal of access to the Services (or the applicable Services set forth on the Order Form) and barring of further use of such Services. Upon termination of this Agreement Threshold 360 has the right to delete Customer's password and all related information, files and Customer Content associated with or inside Customer's Account (or any part thereof). Upon termination of Customer's access to the Services, Customer's right to use the Platform, Threshold 360 Content and Services will automatically terminate immediately, and Customer shall cease using and delete all copies or portions of the Platform and Threshold 360 Content. Any continuing rights of Customer to use any of the Threshold 360 Content shall be expressly set forth in the applicable Order Form. All provisions of this Agreement which by their nature should survive, shall survive termination of this Agreement, including without limitation, ownership provisions, warranty disclaimers, indemnification and limitation of liability.

## 14. GENERAL PROVISIONS.

**14.1 Assignment.** This Agreement, and Customer's rights and obligations hereunder, may not be assigned, subcontracted, delegated or otherwise transferred by Customer without Threshold 360's prior written consent, and any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void.

- 14.2 **Force Majeure.** Threshold 360 shall not be liable for any delay or failure to perform resulting from causes outside its reasonable control, including, but not limited to, acts of God, war, terrorism, riots, embargos, acts of civil or military authorities, fire, floods, accidents, strikes or shortages of transportation facilities, fuel, energy, labor or materials.

## 15. ARBITRATION AGREEMENT AND DISPUTE RESOLUTION.

- 15.1 **Dispute Resolution.** The parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between representatives with the authority to resolve such dispute. If the matter has not been resolved within thirty (30) days of a party's request for negotiation, either party may initiate arbitration as provided below.
- 15.2 **Arbitration.** Any dispute arising out of or relating to this Agreement shall be submitted to arbitration. In the event the parties cannot agree on a neutral arbitrator, the parties agree to utilize the American Arbitration Association, under the Arbitration Rules then in effect. Any court having jurisdiction thereof may enter judgment upon the award rendered by the arbitrator(s). The arbitrator is not empowered to award damages in excess of compensatory damages and each party hereby irrevocably waives any right to recover such damages with respect to any dispute resolved by arbitration. The decision of the arbitrator shall be in accordance with the terms and conditions of this Agreement, shall be binding upon the parties, and may not be appealed. The parties will comply with the arbitrator's decision in good faith. Either party may apply to any court with proper jurisdiction for enforcement of the arbitration decision. Unless otherwise agreed to, the place of arbitration shall be in San Francisco, California. The fees and expenses of the arbitrator shall be divided equally between the parties unless otherwise ordered by the arbitrator.
- 15.3 **Equitable Relief.** The parties agree that any breach of confidentiality or intellectual property infringement and violation of intellectual property ownership rights, may cause irreparable damage to the other party and that in the event of such breach, infringement or violation, the non-breaching party shall have, in addition to any and all remedies of law, the right to seek an injunction, specific performance or other equitable relief in a court of law to enforce the breaching party's obligations under this Agreement.
- 15.4 **Legal Fees.** If either party brings an action against the other by reason of the breach or for the enforcement of any provision or otherwise arising out of this agreement, the prevailing party in such suit shall be entitled to its costs of suit and reasonable attorneys' fees which shall be payable whether or not such action is prosecuted to judgment.

## 16. GENERAL PROVISIONS.

- 16.1 **Governing Law.** This Agreement and any action related thereto will be governed and interpreted by and under the laws of the State of Florida, without giving effect to its conflict of laws principles. Customer and Threshold 360 agree that to the extent that litigation is permitted and undertaken in connection with this Agreement, it will be litigated exclusively in the state or federal courts located in Hillsborough County, Florida. The United Nations Convention on Contracts for the International Sale of Goods does not apply to these Terms.
- 16.2 **Compliance with Laws.** Customer agrees to comply with all applicable laws in the performance of its obligations hereunder including with all export and import laws and regulations of the United States and other applicable jurisdictions. Without limiting the foregoing, (i) Customer represents and warrants that it is not listed on any U.S. government list of prohibited or restricted parties or located in (or a national of) a country that is subject to a U.S. government embargo or that has been designated by the U.S. government as a "terrorist supporting" country, (ii) Customer will not (and will not permit any third parties to) access or use the Services in violation of any U.S. export embargo, prohibition or restriction, and (iii) Customer will not submit to the Services any information that is controlled under the U.S. International Traffic in Arms Regulations. Customer agrees that it has not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any Threshold 360 employees or agents in connection with this Agreement.
- 16.3 **Federal Government End Use Provisions.** Threshold 360 provides the Services, including all related software, for ultimate federal government end use solely in accordance with the following: Government

technical data and software rights related to the Services include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not granted under these terms, it must negotiate with Threshold 360 to determine if there are acceptable terms for granting those rights, and a mutually acceptable written addendum specifically granting those rights must be included in any applicable agreement.

- 16.4 **Notice.** Where Threshold 360 requires that Customer provides an email address, Customer is responsible for providing Threshold 360 with Customer's most current email address. In the event that the last email address Customer provided to Threshold 360 is not valid, or for any reason is not capable of delivering to Customer any notices required or permitted by this Agreement, Threshold 360's dispatch of the email containing such notice will nonetheless constitute effective notice. Customer may give notice to Threshold 360 at the following address: Threshold 360, Inc., 500 E Kennedy Blvd, Tampa, Florida 33602. Such notice shall be deemed given when received by Threshold 360 by letter delivered by nationally recognized overnight delivery service or certified mail, return receipt requested, at the above address.
- 16.5 **Waiver.** Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.
- 16.6 **Severability.** If any provision of this Agreement is, for any reason, held to be invalid or unenforceable, the other provisions of this Agreement will remain enforceable, and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law.
- 16.7 **Entire Agreement.** This Agreement, any applicable Order Form and any exhibits attached hereto are the final, complete and exclusive agreement of the parties with respect to the subject matter hereof and supersedes and merges all prior discussions between the parties with respect to such subject matter.