

Terms of Use

Effective as of November 14, 2013

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ShotTracker reserves the right, at its discretion, to change, modify, add or remove portions of these Terms of Use at any time by posting such changes to this page. In addition, if you have previously registered an account, ShotTracker will endeavor to notify you of such changes via the email address you provided to ShotTracker. You understand that you have the affirmative obligation to check these Terms of Use periodically for changes, and you hereby agree to periodically review these Terms of Use for such changes. The continued use of the Services following the posting of changes to these Terms of Use will constitute your acceptance of those changes. The most current version of these Terms of Use can be reviewed at www.shottracker.com/terms.

BY USING OR OTHERWISE ACCESSING THE SERVICES, CREATING, REGISTERING, OR ACCESSING AN ACCOUNT, POSTING OR DOWNLOADING CONTENT, OR ANY OTHER INFORMATION TO OR FROM THE SERVICES, OFFERING FOR SALE OR PURCHASING ANY PRODUCTS OR SERVICES VIA THE SERVICES OR MANIFESTING YOUR ASSENT TO THESE TERMS OF USE IN ANY OTHER MANNER, YOU HEREBY UNEQUIVOCALLY AND EXPRESSLY AGREE TO, AND SHALL BE SUBJECT TO, THESE TERMS OF USE. IF YOU DO NOT UNEQUIVOCALLY AGREE TO THESE TERMS OF USE, YOU MAY NOT USE OR OTHERWISE ACCESS THE SERVICES, CREATE, REGISTER, OR ACCESS AN ACCOUNT, POST OR DOWNLOAD CONTENT, OR ANY OTHER INFORMATION, TO OR FROM THE SERVICES OR OFFER FOR SALE OR PURCHASE ANY PRODUCTS OR SERVICES VIA THE SERVICES.

General Terms of Use and Restrictions on Use

ShotTracker hereby grants you a limited, nonexclusive, nonassignable, nontransferable license to access and use the Services solely for the noncommercial, personal use of User or the internal business needs of the entity of which User is an authorized representative, as the case may be, subject to your agreement to, compliance with and satisfaction of these Terms of Use. In the event that you subscribe to certain services or Content provided by ShotTracker via the Services on a subscription basis (the "Subscription Content"), upon payment of any applicable fees or other charges associated with such subscription, ShotTracker grants you a limited, non-exclusive, nonassignable, nontransferable license to access and use such Subscription Content for the term of the subscription solely for the noncommercial, personal use of User or the internal business needs of the entity of which User is an authorized representative, as the case may be, and subject to your agreement to, compliance with and satisfaction of these Terms of Use. All rights not otherwise expressly granted by these Terms of Use are reserved by ShotTracker. If you do not comply with the Terms of Use at any time, ShotTracker reserves the right to revoke the aforementioned license(s), limit your access to the Services or restrict your ability to post or download Content, or order products and services. You agree not to reproduce, duplicate, copy, distribute, transmit, sell, trade, resell or exploit for any purpose any portion of or any information from the Services. You may not obscure or remove any proprietary rights notices contained in or on the Content. You are solely responsible for providing, maintaining and ensuring the compatibility of all hardware, software, electrical and other physical requirements necessary for your access to and use of the Services or any part thereof.

ShotTracker may discontinue or alter any aspect of the Services, remove Content from the Services, restrict the time the Services is available or restrict the amount of use permitted at ShotTracker's sole discretion and without prior notice or liability. You agree that ShotTracker may, under certain circumstances, immediately suspend and/or terminate your access to the Services or any part thereof. Cause for such measures shall include, without limitation: (a) breaches or violations of these Terms of Use or other incorporated agreements or guidelines; (b) discontinuance or material modification to the Services; (c) unexpected technical or security issues or problems; (d) extended periods of inactivity; and/or (e) engagement by you in fraudulent or illegal activities. You further agree that such measures shall be taken in ShotTracker's sole discretion and without liability to you or any third party.

For purposes of these Terms of Use, references to “post” or “posting” shall refer to any manner of posting, transmitting, uploading, providing, making available or otherwise transferring material or information.

ShotTracker Intellectual Property

Unless otherwise specifically noted in these Terms of Use, images, trademarks, service marks, logos and icons displayed on the Services, including, without limitation, the “ShotTracker” mark, the ShotTracker logo, the “Light It Up” mark, are the property of ShotTracker and/or its licensors and may not be used without ShotTracker’s prior written consent. Trademarks owned by third parties are the property of those respective third parties. The Services, including, without limitation, the Subscription Content, is the copyrighted property of ShotTracker, and it may not be reproduced, recreated, modified, accessed or used in any manner or disseminated or distributed to any other party in violation of these Terms of Use. Any unauthorized use of any Content, whether owned by ShotTracker or other parties, may violate copyright laws, trademark laws, privacy and publicity laws and communications regulations and statutes. You will not copy, reverse engineer, disassemble, decompile, translate, modify, reproduce, republish, transmit, sell, offer for sale, disseminate or redistribute the intellectual property found in the Services or any part thereof or grant any other person or entity the right or access to do so.

Accounts

For certain aspects of the Services, you may be asked to register an account. In the event you agree to register an account, you will select and/or receive a username and password upon providing registration information and successfully completing the registration process. This account is personal to you, and you will not share it or allow any other person to utilize your account. You are responsible for maintaining the confidentiality of your username and password and are fully responsible for all activities that occur under your username and password. You agree to immediately notify ShotTracker in the event: (a) your registration information changes, or (b) you learn of or have reason to suspect any unauthorized use of your account or any other breach of security. You also agree that you will provide truthful and accurate information during the registration process. ShotTracker may refuse to grant a particular username to you for any reason, including, without limitation, in the event ShotTracker determines that such username impersonates someone else, is protected by trademark or other proprietary right law or is vulgar or otherwise offensive.

Content

You acknowledge that the Services may contain or provide access to information, software, photos, video, text, graphics, music, sounds or other material provided by ShotTracker or third parties (collectively, “Content”) that are protected by copyrights, patents, trademarks, trade secrets or other intellectual property laws, and that these rights are valid and protected in all forms, media and technologies existing now or hereafter developed. For the avoidance of doubt, references to Content shall include User Content and Subscription Content.

The Content posted by users via the Services other than Feedback (defined below) (“User Content”) is the intellectual property of the specific users of the Services who post such User Content and their licensors, if any. ShotTracker does not claim any ownership rights in such User Content. By posting User Content via the Services, however, you hereby grant to ShotTracker a limited, transferable, nonexclusive, worldwide, perpetual, royalty-free license to use, reproduce, modify, edit, adapt, publish, translate, display, distribute, sell, sublicense and create derivative works and compilations incorporating such User Content.

ShotTracker does not generally monitor or otherwise remove User Content after it is posted on the Services except under certain limited circumstances as required or permitted by law or otherwise in the sole discretion of ShotTracker. In the event you would like to request that ShotTracker remove your User Content from the Services, please contact ShotTracker at info@shottracker.com. Please note however, that if ShotTracker agrees, in its sole discretion to remove your User Content, such User Content may not be completely removed or may otherwise still be available to others in the following circumstances: (a) your User Content has been incorporated into derivative works or compilations created by ShotTracker or other parties; (b) such User Content has been retained in ShotTracker’s data backup systems or for archival purposes; or (c) to the extent such User Content has been sold to or downloaded by other persons and such persons retain your User Content.

Feedback

ShotTracker welcomes your comments, feedback, information, or materials regarding the Services, Content or ShotTracker’s products or services (collectively, “Feedback”). If you submit Feedback to ShotTracker, please note that your Feedback shall become the property of ShotTracker. By submitting your Feedback to ShotTracker, you agree to assign, and hereby irrevocably assign to ShotTracker, all right, title, and interest in and to the Feedback and all copyrights and other intellectual property rights embodied in such Feedback on a worldwide basis.

ShotTracker shall be free to use your Feedback on an unrestricted basis. You hereby assign and/or waive, as the case may be, any moral rights that you may have in or to the Feedback.

Widgets

Please be aware that ShotTracker may deliver Content on the Services via or allows third parties to post widgets provided by third parties (“Widgets”). These Widgets are controlled by third party content providers (“Widget Providers”). ShotTracker does not endorse and is not responsible or liable for any Content, advertising, products, or other materials on or available through such Widgets. The Widgets may use “cookies” or otherwise gather or collect information about you, including by asking you to provide information through such Widgets. The use of these Widgets, as well as the privacy practices of the Widget Providers, are governed by the applicable Widget Providers’ separate terms of use and privacy policies, if any. ShotTracker strongly encourages you to review any separate terms of use and privacy policies governing use of these Widgets.

ShotTracker’s Privacy Policy

ShotTracker collects, stores and uses data collected from you in accordance with ShotTracker’s Privacy Policy, located at www.shottracker.com/privacy. The terms and conditions of the Privacy Policy are hereby expressly incorporated into these Terms of Use.

Links

The Services may provide, or third parties may provide, links to other websites or resources on the Internet. Because ShotTracker has no control over such websites or resources, you acknowledge and agree that ShotTracker is not responsible for the availability of such external websites or resources, and ShotTracker does not endorse and is not responsible or liable for any Content, advertising, products, or other materials on or available from such websites or resources or for any privacy or other practices of the third parties operating those websites or resources. You further acknowledge and agree that ShotTracker shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with your use of or reliance on any such Content, goods or services available on or through any such website or resource. ShotTracker strongly encourages you to review any separate terms of use and privacy policies governing use of these third party websites and resources.

Sales

ShotTracker may allow users to sell such users’ User Content via the Services or its third-party partners. In the event you choose and ShotTracker allows you to sell your User Content via the Services or its third-party partners, you agree to the additional terms and conditions stated in ShotTracker’s policy governing Sales of User Content, if any. The terms and conditions of the policy governing Sales of User Content are hereby expressly incorporated into these Terms of Use.

Purchases

ShotTracker may allow users to place Orders for products, subscriptions, and/or services via the Services or through its third-party affiliate. “Order” shall mean any order placed by a user for products, subscriptions and/or services via the Services that is accepted by ShotTracker. In the event that you are a user placing an Order to purchase products, subscriptions, and/or services, you are subject to the additional terms of this section. Please note that in some cases, you may be directed to a third-party website make purchases. In such an event, the purchase terms in this section do not apply, and your purchase will be governed by the terms of such third-party website. By making such purchases, you hereby agree that ShotTracker has no responsibility, and shall have no liability, for any claim related to your purchases on such third-party websites.

Upon placing an Order, you shall pay to ShotTracker the purchase price as set forth in the “Shopping Cart” or similar ordering mechanism. ShotTracker or its third-party affiliates may utilize the services of certain third-party payment processors to process payments of credit cards and other accepted methods of payment. Your purchase is subject to any additional terms and conditions imposed by such third-party payment processors. The purchase price and any applicable fees or taxes shall be applied to your chosen method of payment upon submission of your order.

Prices and availability of products are subject to change without notice. Errors will be corrected where discovered, and ShotTracker reserves the right to revoke any stated offer and to correct any errors, inaccuracies or omissions including after an order has been submitted and whether or not the order has been confirmed and your payment method accepted and charged. In the event your payment method has been accepted and charged, ShotTracker will issue you the appropriate credit within a reasonable time after your order has been revoked.

In the event you purchase a product that must be shipped to you, such products will be shipped by ShotTracker and/or its third-party contractors within a reasonable time after processing of your order. Shipment time will vary depending on the shipping method and service you select. ShotTracker does not guarantee delivery at any certain time and is not responsible for shipping delays.

In the event you purchase products that embody or otherwise contain Content owned by ShotTracker or other parties, you agree to the following restrictions regarding such products and the Content or other information contained or embodied therein: (a) you may not resell any Content or otherwise profit from its use or display; (b) you may not, nor will you allow any other party to, reproduce, modify, edit, adapt, publish, translate, display, distribute, sell, sublicense, or create derivative works or compilations incorporating such Content without the express permission of the owner of such Content; (c) you will not otherwise violate any additional legal or contractual restrictions governing use of the Content; and (d) you will not obscure or remove any proprietary rights notices contained in or on the Content.

In the event you purchase subscriptions and/or services that embody or otherwise contain Subscription Content, you agree to the following restrictions regarding such Subscription Content or other information contained or embodied therein: (a) such Subscription Content (i) is the confidential information of ShotTracker, (ii) you may use the Subscription Content for your personal or internal business needs only in accordance with the terms of this Agreement, (iii) you may not disclose the Subscription Content to third parties, and (iv) you will use best efforts to safeguard such Subscription Content from unauthorized use or disclosure; (b) you may not resell any Subscription Content or otherwise profit from its use or display; (c) you may not, nor will you allow any other party to, reproduce, modify, edit, adapt, publish, translate, display, distribute, sell, sublicense, or create derivative works or compilations incorporating such Subscription Content; (d) you will not otherwise violate any additional legal or contractual restrictions governing use of the Subscription Content; and (e) you will not obscure or remove any proprietary rights notices contained in or on the Subscription Content.

If a product ordered by you is damaged upon receipt, ShotTracker, at its sole option, may provide a replacement product or refund the purchase price. Damaged products which ShotTracker will accept for return or refund include products that are missing, torn, or physically damaged or inoperable. Otherwise, ShotTracker cannot guarantee the quality of the products sold via the Services that contain User Content or guarantee the lack of errors in such User Content (including, without limitation, misspellings, and grammatical or other errors). ShotTracker does not monitor or inspect User Content prior to inclusion in products sold via the Services, and the user creating and/or posting such User Content bears all responsibility for such User Content.

User Representations

You hereby represent and warrant to ShotTracker that: (a) you (i) have reached the age of majority in the jurisdiction where you reside (generally 18, 19 or 21 years of age depending on the jurisdiction), (ii) are an emancipated minor under the laws of your jurisdiction of domicile and/or residence, (iii) possess legal parental or guardian consent, or (iv) otherwise have the power and authority to enter into and perform your obligations under this Agreement; (b) all information provided by you to ShotTracker is truthful, accurate, and complete; (c) you are an authorized signatory of the credit or debit card or other method of payment that you provide to ShotTracker or its third-party payment processor to pay the purchase price and any applicable fees or taxes related to your purchases of products and/or services via the Services; (d) you will comply with the terms and conditions of these Terms of Use and any other agreement to which you are subject that is related to your use of the Services, Content or any part thereof; (e) you have provided and will maintain accurate and complete registration information with ShotTracker, including, without limitation, your legal name, email address, and any other information ShotTracker may reasonably require; (f) your access to and use of the Services or any part thereof and/or purchase and use of any products or services will not constitute a breach or violation of any other agreement, contract, terms of use or any law or regulation to which you are subject; (g) you will immediately notify ShotTracker in the event that you learn or suspect that your registration information, username, and/or password have been disclosed or otherwise made known to any other person; (h) you will not use the Services, or any product or service offered via the Services, to gain competitive intelligence about ShotTracker, the Services, or any product or service offered via the Services or to otherwise compete with ShotTracker or its affiliates; and (i) if you purport to be the agent of, represent, or otherwise act on behalf of an entity or any other person, that you are in fact an authorized representative of such entity or other person.

If you post any User Content or provide any Feedback via the Services, you hereby make the following additional representations and warranties to ShotTracker: (1) you are owner of such User Content or Feedback or otherwise

have the right to grant ShotTracker the licenses or assignments granted pursuant to this Agreement; (2) you have secured any and all consents necessary to post the User Content or Feedback and to grant the foregoing licenses or assignments; (3) the User Content or Feedback does not violate the rights of any third party, including, without limitation, the intellectual property, privacy, or publicity rights of any third party, and such User Content or Feedback does not contain any personally identifiable information about third parties in violation of such parties' rights; (4) the use of any User Content or Feedback will not result in harm or personal injury to any third party; and (5) all factual information contained in the User Content or Feedback is true and accurate.

Prohibited Uses

You are solely responsible for any and all acts and omissions that occur under your account or password, and you agree not to engage in unacceptable use of the Services or any part thereof or any User Content that you may sell or purchase via the Services, which includes, without limitation: (a) use of the Services to post, store or disseminate material or information that, is or to a reasonable person may be false, fraudulent, unlawful, harmful, tortious, abusive, obscene, pornographic, defamatory, libelous, harassing, invasive of another's privacy, offensive, vulgar, threatening, malicious, hateful or racially, ethnically or otherwise objectionable; (b) use of the Services to post, store or disseminate Content, files, graphics, software or other material or information that actually or potentially infringes the rights of any person, including, without limitation, the copyright, trademark, patent, trade secret or other intellectual property rights, or privacy, moral or publicity rights, of any person; (c) use of the Services to interfere, disrupt or attempt to gain unauthorized access to other accounts on the Services, to restricted portion of the Services, to Content, or any other computer network or equipment; (d) use of the Services to post, store or disseminate viruses, Trojan horses or any other malicious code or programs designed to interrupt, destroy or limit the functionality of any computer software, hardware, system or telecommunications equipment; (e) use of the Services to post, store or disseminate any unsolicited or unauthorized advertising, promotional materials, junk mail, spam, chain letters, pyramid schemes or other fraudulent schemes, or any other form of solicitation; (f) use of any manual or automated software, devices or other processes to "crawl" or "spider" any web pages contained in the Services (including, without limitation, the use of robots, bots, spiders, scrapers or any other means to extract pricing, product, service or other data from the Services); (g) use of the Services to gain competitive intelligence about ShotTracker, the Services; or any product or service offered via the Services or to otherwise compete with ShotTracker or its affiliates; (h) framing or otherwise simulating the appearance or functions of the Services, or any product or service offered via the Services, or any portion thereof; (i) harvesting or otherwise collecting any information about other users, including, without limitation, email addresses or other contact information of other users; or (k) use of the Services to engage in any activity that, as determined by ShotTracker, may intentionally or unintentionally violate these Terms of Use, violate any applicable laws or regulations, or conflict with the spirit or intent of these Terms of Use.

Disclaimer

ShotTracker uses reasonable efforts to maintain the Services, but ShotTracker is not responsible for any defects or failures associated with the Services, any part thereof, any Content posted using the Services, or any damages (such as lost profits or other consequential damages) that may result from any such defects or failures. The Services may be inaccessible or inoperable for any reason, including, without limitation: (a) equipment malfunctions; (b) periodic maintenance procedures or repairs which ShotTracker may undertake from time to time; or (c) causes beyond the control of ShotTracker or which are not foreseeable by ShotTracker.

ShotTracker does not control the User Content posted by its users, nor does it have any obligation to monitor such User Content for any purpose. Despite the fact that it has no monitoring obligations, ShotTracker reserves the right to remove any and all material that it feels is actually or potentially inappropriate, offensive, illegal or harmful in any respect or which may otherwise violate these Terms of Use. Because the User Content offered via the Services is provided by other users, and because ShotTracker does not monitor or exercise control over the User Content, ShotTracker does not make any warranties or representations regarding any of the User Content offered via the Services or the quality thereof. ShotTracker does not necessarily approve, endorse, sanction, encourage, verify or agree with any message posted by its users or otherwise embodied in the Content. You understand that by using the Services, you may be exposed to Content that may be offensive, indecent, vulgar, defamatory or otherwise objectionable, and that in no way shall ShotTracker be liable under any theory for such exposure.

ShotTracker is not a backup service for storing User Content, and ShotTracker shall have no liability regarding any loss of User Content. You are solely responsible for creating backups of any User Content you post using the Services.

PLEASE NOTE THE FOLLOWING IMPORTANT DISCLAIMERS OF WARRANTIES:

TO THE MAXIMUM EXTENT ALLOWED BY LAW, THE SERVICES, ANY CONTENT, AND ANY PRODUCTS OR SERVICES PROVIDED VIA THE SERVICES ARE PROVIDED “AS IS” AND “AS AVAILABLE,” AND AT YOUR SOLE RISK. TO THE MAXIMUM EXTENT ALLOWED BY LAW, SHOTTRACKER EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE OR PURPOSE, TITLE AND NON-INFRINGEMENT.

WITHOUT LIMITATION, SHOTTRACKER MAKES NO WARRANTY THAT THE SERVICES, ANY CONTENT, OR ANY PRODUCTS OR SERVICES PROVIDED VIA THE SERVICES WILL MEET YOUR REQUIREMENTS, THAT USE OF THE FOREGOING WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, THAT THE RESULTS OBTAINED FROM THE USE OF THE FOREGOING OR ANY INFORMATION FOUND THEREON WILL BE ACCURATE OR RELIABLE, OR THAT THE QUALITY OF ANY CONTENT, PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL OBTAINED THROUGH THE SERVICES WILL MEET YOUR EXPECTATIONS.

ANY CONTENT OR OTHER MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS DONE AT YOUR SOLE RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.

FURTHER, PLEASE NOTE THAT NO ADVICE OR INFORMATION, OBTAINED BY YOU THROUGH THE SERVICES OR ANY PRODUCT SHALL CREATE ANY WARRANTY NOT EXPRESSLY PROVIDED FOR IN THESE TERMS OF USE.

Limitation of Liability

TO THE MAXIMUM EXTENT ALLOWED BY LAW, YOU EXPRESSLY UNDERSTAND AND AGREE THAT SHOTTRACKER SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA, OR OTHER INTANGIBLE LOSSES (EVEN IF SHOTTRACKER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (A) THE USE OR THE INABILITY TO USE THE SERVICES, ANY CONTENT, OR ANY PRODUCTS OR SERVICES PURCHASED VIA THE SERVICES; (B) THE COST OF PROCUREMENT OF SUBSTITUTE PRODUCTS AND SERVICES RESULTING FROM ANY PRODUCTS, DATA, INFORMATION, OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE SERVICES OR OTHERWISE; (C) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS, CONTENT, OR DATA; OR (D) ANY OTHER MATTER RELATING TO THE SERVICES, ANY CONTENT, OR THE PURCHASE OF SHOTTRACKER’S PRODUCTS OR SERVICES. IF YOU ARE DISSATISFIED WITH THE SERVICES, YOUR SOLE AND EXCLUSIVE REMEDY SHALL BE TO DISCONTINUE USE OF THE SERVICES AND TERMINATE THIS AGREEMENT IN ACCORDANCE WITH ITS TERMS. TO THE MAXIMUM EXTENT ALLOWED BY LAW, IN NO EVENT SHALL SHOTTRACKER’S TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES, AND CAUSES OF ACTION (WHETHER IN CONTRACT, TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE) OR OTHERWISE) EXCEED THE AMOUNT PAID BY YOU, IF ANY, FOR ACCESSING THE SERVICES, SELLING OR PURCHASING ANY CONTENT OR PURCHASING SHOTTRACKER’S PRODUCTS OR SERVICES OR ANY AMOUNT RETAINED BY SHOTTRACKER FOR PROVIDING THE SERVICES.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

Indemnification

You agree to defend, indemnify and hold harmless ShotTracker, its officers, members, directors, employees and agents from and against any and all claims, liabilities, damages, losses, or expenses, including attorneys’ fees and costs and expenses, arising out of or in any way connected with: (a) your access to or use of the Services or any part thereof; (b) any User Content you post via the Services; (c) a breach or alleged breach by you of any of your representations, warranties, covenants or obligations under this Agreement; (d) infringement or misappropriation of any intellectual property or other rights of ShotTracker or third parties by you; (e) any negligence or willful

misconduct by you; (f) any other claim related to your performance under this Agreement; or (g) your use of any Content, services, or products provided by ShotTracker.

Term and Termination

This Agreement is effective upon your unequivocal acceptance as set forth herein and shall continue in full force until terminated. You agree that ShotTracker, in its sole discretion, may terminate your use of the Services or any part thereof upon prior notice, and remove and discard any Content, in the event you violate these Terms of Use. You agree that ShotTracker may immediately suspend your account and your access to the Services or any part thereof in order to conduct an investigation in the event it believes you have violated these Terms of Use or if it determines that you are a repeat infringer of another's intellectual property or other rights. ShotTracker may also, in its sole discretion and at any time, discontinue providing the Services, any part thereof, any Content, or any products or services advertised thereon, with or without notice to you. In addition to any other method of termination or suspension provided for in this Agreement, ShotTracker reserves the right to terminate this Agreement at any time and for any or no reason upon ten (10) days notice to you. Further, you agree that ShotTracker shall not be liable to you or any third-party for any termination or suspension of your access to the Services, or any part thereof, removal of Content, or sale of any products. You may terminate this Agreement at any time by immediately discontinuing all access to the Services and by providing notice to ShotTracker of such discontinuance. Termination or cancellation of this Agreement shall not affect any right or relief to which ShotTracker may be entitled at law or in equity. Upon termination of this Agreement, you shall terminate all use of the Services and any Content provided thereby. In the event of termination, you will not be entitled to any refund of any fees or other charges, if any, paid in connection with this Agreement.

Governing Law and Other Miscellaneous Terms

The parties and their respective personnel are and shall be independent contractors, and neither party by virtue of this Agreement shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party.

You acknowledge and agree that any expenses that you incur in furtherance of this Agreement are voluntary in nature and are made with the knowledge that this Agreement may be terminated as provided herein. You shall not make a claim against ShotTracker, and ShotTracker shall not be liable with respect to the recoupment of any expenditures or investment made by you in anticipation of the continuation of this Agreement beyond the term hereof.

The parties agree that breach of the provisions of this Agreement would cause irreparable harm and significant injury to ShotTracker which would be both difficult to ascertain and which would not be compensable by damages alone. As such, the parties agree that ShotTracker has the right to enforce the provisions of this Agreement by injunction (without necessity of posting bond), specific performance or other equitable relief without prejudice to any other rights and remedies ShotTracker may have for your breach of this Agreement.

The validity and effect of these Terms of Use shall be governed by, and construed and enforced in accordance with the laws of Kansas, without regard to its conflicts or choice of laws principles. ANY SUIT, ACTION, OR PROCEEDING CONCERNING OR RELATING TO THE SERVICES, ITS USE, THESE TERMS OF USE, ANY SALE, OR ANY OTHER PRODUCT, SERVICE, POLICY, OR PROCEDURE OF SHOTTRACKER, MUST BE BROUGHT EXCLUSIVELY IN A COURT OF COMPETENT JURISDICTION IN KANSAS, AND YOU HEREBY IRREVOCABLY CONSENT TO THE JURISDICTION OF SUCH COURT (AND OF THE APPROPRIATE APPELLATE COURTS THEREFROM) IN ANY SUCH SUIT, ACTION, OR PROCEEDING, YOU IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT YOU MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUCH SUIT, ACTION, OR PROCEEDING IN ANY SUCH COURT OR THAT ANY SUCH SUIT, ACTION, OR PROCEEDING THAT IS BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT OR IMPROPER FORUM.

If any action at law or in equity is necessary to enforce the terms of this Agreement, the prevailing party will be entitled to reasonable fees of attorneys, accountants, and other professionals, and costs and expenses in addition to any other relief to which such prevailing party may be entitled.

The captions and headings of this Agreement are included for ease of reference only and will be disregarded in interpreting and construing this Agreement.

If the performance of any part of this Agreement by either party (other than payment of money) is prevented, hindered, delayed, or otherwise made impracticable by reason of any flood, riot, fire, judicial or governmental action, labor dispute, act of God, telecommunications failure, or any other cause beyond the control of either party, that party shall be excused from such performance to the extent that it is prevented, hindered, or delayed by such cause.

This Agreement, including any other agreements or additional terms referenced herein, constitutes the complete and exclusive statement of the Agreement between the parties with respect to the Services, Content, and products and services offered via the Services, and, unless otherwise expressly provided herein, it supersedes any and all prior or contemporaneous communications, representations, statements, and understandings, whether oral or written, between the parties concerning the Services, Content, and products and services sold via the Services. If any provision of this Agreement is found unlawful or unenforceable in any respect, the court shall reform such provision so as to render it enforceable or, if it is not possible to reform such provision so as to make it enforceable, then delete such provision. As so reformed or modified, the court shall fully enforce this Agreement. The provisions of this Agreement that by their content are intended to survive the expiration or termination of this Agreement, including, without limitation, provisions governing ownership and use of intellectual property, representations, disclaimers, warranties, liability, indemnification, governing law, jurisdiction, venue, remedies, rights after termination, and interpretation of this Agreement, will survive the expiration or termination of this Agreement for their full statutory period.

The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act shall not apply to this Agreement.

ShotTracker makes no representation that the Services, Content, or other material or information provided via the Services is appropriate to or available in locations outside of the United States. You may not use the Services or export Content in violation of United States export laws, regulations or restrictions. If you access the Services from outside of the United States, you are responsible for compliance with all applicable laws.

Copyright and Copyright Notices

ShotTracker respects the intellectual property of others, and we ask our users to do the same. If you believe that your work has been copied in a way that constitutes copyright infringement, please provide us the following information:

- an electronic or physical signature of the owner or 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;
- a description of where the material that you claim is infringing is located on the Services sufficient to allow us to locate the allegedly infringing material;
- your address, telephone number, and email address;
- a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; and
- 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.