

SERVICES AGREEMENT



confidential

ShotSpotter, Inc.
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ShotSpotter, Inc. (also "ShotSpotter," "We," "Us," or "Our"), a Delaware corporation and the City of Toledo, an Ohio municipal corporation ("Customer," "You" or "Your") pursuant to the authority granted by Ord. 442-18 passed October 23, 2018, and Ord. 121-19 passed March 19, 2019, agree to the following Services and License Agreement and General Terms and Conditions ("Agreement").

The following Agreement is an essential part of the "Purchase Documents" (which term shall include this Agreement and all executed proposals and purchase orders, together with all attachments and appendices) under which you purchase ShotSpotter Gunshot Location services identified in the Purchase Documents and described herein ("Service"). Your access, or use of any part of the Service constitutes your assent to be bound by the Agreement.

1. SERVICES

In consideration of the parties' mutual under-takings set forth in the Purchase Documents and in this Agreement, we both agree as follows:

For purposes of this Agreement, the Service shall consist of (i) providing access by the Customer to Reviewed Alerts delivered via a password-protected internet portal ("Alert Console") and user interface supplied by ShotSpotter (together the Alert Console and interface shall be called the "Software") (ii) providing access to historical Reviewed Alerts and incident information via the Software; and (iii) other services as specified in the Purchase Documents.

"Reviewed Alerts" means data for gunfire incidents, detected by the ShotSpotter Gunshot Location System and reviewed by a ShotSpotter incident reviewer employee (see Exhibit A).

ShotSpotter will install the ShotSpotter Gunshot Location System as defined in the Purchase Document in the coverage area specified in the Purchase Document. ShotSpotter will host the Service and may update the functionality and Software of the Service from time to time at its sole discretion and in accordance with this Agreement.

ShotSpotter shall retain ownership of, and all rights to, all components of the ShotSpotter Gunshot Location System, including hardware components, and Software and firmware in the acoustic sensors. Under this Agreement, the Customer is only licensing rights to access the incident information detected by the ShotSpotter Gunshot Location System.

2. LICENSE

You have a non-exclusive, non-transferable and terminable license to use the Service and Data (hereinafter defined) subject to the following terms and conditions.

This License constitutes an offer by us to you. **By manifesting your assent to these terms, using the service, or by issuing a purchase order or signing a purchase agreement, you agree to be bound by the terms and conditions of this license.**

A. RIGHTS IN DATA.

All information created, generated, modified, compiled, stored, kept or displayed ("Data") by ShotSpotter ("Subscription Service") through the Subscription Service in the course of providing the related Services to Customer, remains the sole and exclusive property of ShotSpotter. ShotSpotter expressly reserves the rights to copy, publish, display, adapt, modify, translate, perform publicly, make works derived from, transfer, sell, offer for sale, and to use any and all Data for internal purposes such as research or product development. ShotSpotter may provide, license or sell Gunfire Data on an aggregated basis to third parties (excluding press or media) to be used for research or analytical purposes, for example, but not by way of limitation, gunshot violence statistics or studies and other law enforcement-related purposes, including, for example, to create national gunfire indices or priorities.

Notwithstanding the foregoing sentence and although ShotSpotter owns the Data with respect to the Subscription Service, ShotSpotter will provide reasonable notice if any Data to be released is specific forensic or law enforcement sensitive incident information that may pertain to any active investigation or prosecution. At no time, does ShotSpotter release, sell, license, or otherwise distribute the gunfire alert Data to the press or media without the prior express Customer consent, which shall not be unreasonably withheld.

Customer shall have the unrestricted right to download, make copies of, distribute and use Data within its own organization, exclusively for its own law enforcement and prosecutorial purposes, including but not limited to detecting and locating gunfire, routine archival recordkeeping, evidentiary, investigative, and/or analytic purposes. Customer will not provide, license the use of, or sell Data to any third party. Such restriction will not apply to: (i) collaborating with other law enforcement agencies with regard to the investigation and prosecution of gun crimes detected by the ShotSpotter service; and (ii) transferring Data to other Customer law enforcement or prosecutorial systems.

B. RESTRICTIONS.

The Software and Data are our proprietary products, may incorporate components supplied to us under license by third-party suppliers, and may be protected by United States patent, trade secret, copyright law and international treaty provisions. All such rights in and to Software and Data and any part thereof are the property of us or our suppliers. By virtue of this License, you acquire only the right to use the Software and Data in accordance with this Agreement, but otherwise acquire no license, title or ownership rights, express or implied, in or to the Software or Data, or any right to use or practice any of our patents, copyrights, trademarks, or trade secrets, all of which rights are reserved expressly by us or our suppliers. You may not make any copies of the written materials or documentation that accompanied any component of the Software, or use them, or any other information concerning the Service that we have designated as confidential for any purpose other than bona fide use of the Service or Software for the specific purposes contemplated herein, nor allow anyone else to do so; provided that such 'designation' or decision is subject

to applicable local, state, and federal governing laws and regulations,. You shall not, without our express written consent, which may be only be reasonably withheld : (i) modify, adapt, alter, translate, copy, perform or display (publicly or otherwise) or create compilations, derivative, new or other works based, in whole or in part, on the Software or Data, or on the Service; (ii) merge, combine, integrate or bundle the Software or the Data, in whole or in part, with other software, hardware, data, devices, systems, technologies, products, services, functions or capabilities; (iii) transfer, distribute, make available the Service, Data, or Software to any person other than the specific end-user customer identified to ShotSpotter in the Purchase Documents, sell, resell, sublicense, lease, rent, or loan the Service, Data, or Software, in whole or in part, or (iv) provide use or permit operation of any of the Service, Software or Data by any person other than the original end-user customer designated in the Purchase Documents, nor in or through any application service provider, service bureau, rental or time-sharing arrangement; (v) disassemble, decompile, or otherwise reverse engineer or attempt to reconstruct, derive, or discover any source code, underlying ideas, algorithms, formulae, routines, file formats, data structures, programming, routines, interoperability interfaces, drawings, or plans from the Data or Software, or any data or information created, compiled, displayed, or accessible through the System, in whole or in part; or (vi) remove, modify or obscure any identification or proprietary or restrictive rights markings or notices from the Data, Software or any component thereof.

ShotSpotter and its licensors retain all ownership of all intellectual property rights in and to all Data, Software, all computer programs, related documentation, technology, knowhow and methods and processes embodied in or made available to you in connection with the Service, including, without limitation, all patent rights, copyrights, trade secret rights, trademarks and service marks. All rights not expressly granted to you herein are reserved by ShotSpotter. You shall take all reasonable measures to protect ShotSpotter's intellectual property rights in the Service and Software, including providing assistance and measures as are reasonably requested by ShotSpotter from time to time.

You are hereby placed on notice that alteration or removal of copyright management information (including, without limitation, licensor's name and other identifying information, name of the Service, the terms and conditions of this License, and identifying numbers or symbols) embodied in or associated with the Service is prohibited, because such conduct may cause others to infringe our rights in and to the system, Service and/or Software. You may also not obscure or remove any confidentiality, patent, trademark or copyright notices on any component of the Service, or any documentation.

C. TERMINATION.

We agree that the right to use the Service, Software and Data may terminate if either party violates any of the terms of this License, fails to timely pay any sums owed to us or fails to renew the Service upon expiration of the Service term provided that either party will have a reasonable opportunity to cure any alleged violation five (5) business days after prior written notice by the non-defaulting party .

In the event of termination, your access to the Data and Software will be terminated, and ShotSpotter will cease delivering Reviewed Alerts, and disable your access to the Data. ~~Moreover, either party shall have~~

~~the unilateral right to terminate Agreement for convenience at any time thirty (30) days after written notice to the other party.~~

D. MODIFICATION TO OR DISCONTINUATION OF THE SERVICE.

ShotSpotter reserves the right at any time and from time to time to modify, temporarily or permanently, the Service (or any part thereof). In the event that ShotSpotter modifies the Service in a manner which removes or disables a feature or functionality on which Customer materially relies, ShotSpotter, at Customer's request, shall use commercially reasonable efforts to restore such functionality to Customer. In the event that ShotSpotter is unable to substantially restore such functionality, Customer shall have the right to terminate the Agreement and receive a pro-rata refund of the annual Service fees paid under the Agreement for use of the Service which was paid for by Customer but not yet furnished by ShotSpotter as of the date of such termination. Customer acknowledges that ShotSpotter reserves the right to discontinue offering the Service at the conclusion of Customer's then current term. Customer agrees that ShotSpotter shall not be liable to Customer or to any third party for any modification of the Service as described in this section.

E. OTHER RESTRICTIONS.

You acknowledge and agree that the source code and internal structure of the Software, Data and Service, as well as documentation, operations manual and training material are our confidential property, and trade secrets, the value of which may be destroyed by disclosure to the public. Use by anyone other than you of the Service, and some documentation, and Data is prohibited unless ordered by a court of competent jurisdiction or local, state, or federal governing authority.

3. LIMITED EXCLUSIVE WARRANTY.

Provided that you comply with your obligations under the terms and conditions stated herein, we warrant that the Software will be free of defects in workmanship which materially impair the functioning of the Service and Software in substantial conformity with the functions described in ShotSpotter's proposal as contained herein. The Software covered under this limited exclusive warranty consists exclusively of ShotSpotter Alert Console software and user interface, installed and operated locally on customer's computers and acoustic sensor devices supplied by ShotSpotter for your use by on and in connection with a ShotSpotter System, subject to the terms and conditions of the License between you and us.

A. REVIEWED ALERT SERVICE LEVELS.

As regards to sonic event review and alert services, subject to the Customer's compliance with its obligations hereunder, and to the disclaimers and limitations set forth in Exhibit A, and in Sections 5(C), 6, 7, 13 and 15 of this Agreement, we agree to provide the service levels set forth in Exhibit A, attached hereto.

B. OTHER WARRANTY.

ShotSpotter warrants that the Service, Data and Software shall be free of viruses, Trojan horses, worms, spyware, or other malicious code or components.

The limited exclusive warranties expressly set forth in this Agreement are the only warranties made to you and are provided in lieu of any other warranties (if any) created by any documentation or packaging, or otherwise express or implied. These limited exclusive warranties give you specific legal rights, and you may also have other rights which vary by jurisdiction.

4. ShotSpotter SUPPORT.

During the term of the Services, ShotSpotter will make commercially reasonable efforts to promote Customer's successful utilization of the Service, including but not limited to providing Customer with user guides, online help, online training presentation, and online training sessions (as available). ShotSpotter will provide reasonable efforts to respond via email to requests for support relating to incident classification within 8 hours of the request.

In addition, ShotSpotter will use commercially reasonable efforts to respond to other support requests within 24 hours of receipt of the request during the period of 8 am to 5 pm Monday through Friday. The e-mail support specialist shall be responsible for receiving Customer reports of missed incidents, or errors in the Service, and, to the extent practicable over email or telephone, making commercially reasonable efforts to assist the Customer in resolving the Customer's reported problems. In the event the problem cannot be resolved telephonically, then ShotSpotter will use commercially reasonable efforts to restore functionality of the Service to Service specifications within 72 hours of receipt of the report.

A. FORENSIC REPORTS.

ShotSpotter, at the specific request of the customer, will produce and provide a reasonable quantity of detailed incident forensic reports for any ShotSpotter detected incidents, including Reviewed Alerts, if such information is deemed by the customer to be valuable to the customer for investigation follow-up, prosecutorial requirements, or after action review.

Such reports must be requested a minimum of 5 days in advance of when needed, and all such requests must be in writing and addressed to the ShotSpotter Customer Service Department. Customer should expect delivery of these reports within 5 days after receipt of the request.

B. EXPERT WITNESS SERVICES.

ShotSpotter offers reasonable expert witness services. The parties understand agree that neither the Customer or ShotSpotter will be responsible for the travel and per diem reimbursement and such reimbursement will be the responsibility of the requesting party, which will most likely be the County Prosecutor. At the specific request of the County Prosecutor, ShotSpotter will provide individual(s) for the purposes of expert witness testimony for any ShotSpotter-detected incidents, including Reviewed Alerts, for which the incident information is deemed by the County Prosecutor to be valuable to the customer's prosecutorial requirements. Customer understands that ShotSpotter undertakes to provide individuals whose qualifications are sufficient for such services, but does not warrant that any person or his or her opinion will be accepted by every court. ShotSpotter requires at least fourteen (14) days prior notice of such

a requirement in writing from the County Prosecutor. County Prosecutor must include dates, times, specific locations and a point of contact for ShotSpotter personnel. Due to the nature of legal proceedings, ShotSpotter cannot guarantee that its services described in this section shall produce the outcome, legal or otherwise, which Customer desires. Payment for expert witness services described shall be due and payable when services are rendered regardless of the outcome of the proceedings.

5. TERM, RENEWAL

A. TERM AND COMMENCEMENT.

initial for a period of five years, subject to annual appropriations by Toledo City Council, The Service term shall be ~~specified in the Purchase Document~~ and will commence on the date that the Service is available to the Customer via the Alert Console ~~subject to city's Toledo City Council legislative approval and necessary appropriation and expenditure, which if denied may result in immediate termination of Agreement.~~

B. RENEWAL.

After the initial term, The Service may be renewed ~~subject to city's Toledo City Council legislative approval and necessary appropriation and expenditure, which if denied may result in immediate termination of Agreement~~ for successive periods of one year each, in accordance with the following procedure. Not later than thirty (30) days prior to the expiration of the Service term then in effect, Customer shall issue a purchase order and tender payment in full for the next annual renewal (unless otherwise agreed in writing by ShotSpotter), and the term shall be renewed for another year. ShotSpotter shall provide Customer with renewal fees terms and conditions for the next successive renewal term upon Customer's request but no later than 90 days from the expiration date. Customer acknowledges that the Service fees terms and conditions and service levels hereunder are subject to change and that such fees, terms and conditions, and service levels may vary from those applicable to this Agreement in successive renewal terms. ShotSpotter however agrees that Services fees for future renewals shall not increase by more than 5% over the Services fees for the previous year.

If Customer fails to renew in a timely manner and hence allows the Service term to expire then the Service will terminate in accordance with Section 2. C. At its discretion, ShotSpotter may remove the ShotSpotter Gunshot Location System and any components from the coverage area at that time. If ShotSpotter does not remove the ShotSpotter Gunshot Location System from the coverage area, Customer may reinstate the Service at a later date by renewing; however, Customer will not have access to any Reviewed Alerts that they would have had access to during the lapsed period.

C. COMMERCIAL CARRIER DATA SERVICES.

The ShotSpotter Gunshot Location System may use wired, wireless or cellular wireless acoustic sensor communications which necessitates the existence of a real-time data communications channel from each sensor to the hosted servers via a commercial carrier. The unavailability or deterioration of the quality of such wired, wireless or wireless cellular communications may impact the ability of ShotSpotter to provide

the Service. In such circumstances ShotSpotter will use commercially reasonable efforts to obtain alternate wired or wireless cellular communications or adjust the coverage area as necessary. In the event ShotSpotter is unable to do so, ShotSpotter will terminate the Service and refund pro-rata portion of the annual Service fee to Customer for the portion of the coverage area that has failed to perform according to the service levels defined in Exhibit A and for the portion of the service term that this performance failure has occurred.

6. IP INFRINGEMENT; EXCLUSIVE REMEDY.

ShotSpotter agrees to defend and indemnify Customer from and against losses, suits, damages, liability and expenses (including reasonable attorney fees) arising out of a claim asserted in a lawsuit or action against the end-user customer by a third party in which such third party asserts a claim that the Service and/or Software, when used in accordance with ShotSpotter's specifications and for the purposes intended, infringes any United States patent which was issued by the U.S. Patent and Trademark Office, or United States copyright which was registered by the U.S. Copyright Office, as of the effective date of Customer's agreement to purchase the ShotSpotter Flex System.

Provided, however, that ShotSpotter shall have the right to choose counsel to defend such suit and/or action, and to control the settlement (including determining the terms and conditions of settlement) and the defense thereof, and that Customer shall provide ShotSpotter with reasonably prompt written notice of any such suit or action, and of any oral, written or other communication or other information or circumstances of which Customer becomes aware that could reasonably be expected to lead to such a suit or action (including any and all cease and desist demands or warnings, and offers or invitations to enter license agreements), and shall provide ShotSpotter all reasonable assistance and information in connection with ShotSpotter's investigation and defense of any claim of infringement.

Further provided, however, that this section shall not apply and ShotSpotter shall have no obligation to defend and indemnify Customer in the event the Customer modifies, alters, substitutes, or supplements any of the Service, or Software, or to the extent that the claim of infringement arises from use of the Software in combination with hardware and/or software not provided by ShotSpotter unless the Documentation and Specifications refers to a combination with such hardware or software without directing the user not to perform such a combination; or such combination achieves functionality described in documentation or specifications and neither the documentation nor specifications directs the user not to perform such combination, nor to the extent that the Service or Software are used for or in connection with any purpose, application or function other than detecting and locating gunshots exclusively through acoustic means.

If, in ShotSpotter's opinion, the Service, or Software may, or is likely to become, the subject of such a suit or action, does become the subject of a claim asserted against a customer in a lawsuit which ShotSpotter is or may be obliged to defend under this section, or is determined to infringe the foregoing patents or copyrights of another in a final, non-appealable Judgment subject to ShotSpotter's obligations under this

section, then ShotSpotter may in full and final satisfaction of any and all of its obligations under this section, at its option: (1) procure for Customer the right to continue using the affected Service or Software, (2) modify or replace such Service or Software to make it or them non-infringing, or (3) refund to the purchaser a pro-rata portion of the Annual Service price paid for the Service System; provided that in conjunction with this Customer's right to terminate for breach where applicable, the preceding sentence states ShotSpotter's sole obligation and liability, and Customer's sole remedy, for potential or actual intellectual property infringement by the Software..

7. LIMITED WARRANTIES EXCLUSIVE; DISCLAIMERS IMPORTANT; PLEASE READ CAREFULLY

To the maximum extent permitted by applicable law, the limited warranties expressly set forth above are exclusive, and in lieu of all other warranties, whether written, oral, express, implied or statutory. There are no warranties that extend beyond those expressly set forth herein, and no prior statements, or representations, by any ShotSpotter representatives shall vary, expand or modify these warranties.

To the maximum extent permitted by applicable law, all other representations or warranties, express, implied, or statutory, including without limitation, any warranties of non-infringement, quality, suitability, merchantability, fitness for a particular purpose or otherwise of any services or any goods provided incidental to the services provided under this agreement are hereby expressly disclaimed and superseded by the exclusive limited express warranty and disclaimers set forth herein.

Without limiting the generality of the foregoing limitations and disclaimers, while the Service is not designed, sold, or intended to be used to detect, intercept, transmit or record oral or other communications of any kind, ShotSpotter cannot control how the Service is used, and, accordingly, ShotSpotter does not warrant or represent, expressly or implicitly, that use of the Service will comply or conform to the requirements of federal, state or local statutes, ordinances and laws, or that use of the Service will not violate the privacy rights of third parties. You shall be solely responsible for using the Service in full compliance with applicable law and the rights of third persons.

Further, regardless of any prior statements, representations, or course of dealings by any ShotSpotter representatives, we do not warrant or represent, expressly or implicitly, that the Service or its use will: result in the prevention of crime or hostile enemy action, apprehension or conviction of any perpetrator of any crime, military prosecution of any enemy force, or detection or neutralization of any criminal, combatant or threat; prevent any loss, death, injury, or damage to property due to the discharge of a firearm or other weapon; in all cases result in a Reviewed Alert for all firearm discharges within the designated coverage area; or that the ShotSpotter-supplied network will remain in operation at all times or under all conditions.

ShotSpotter expressly disclaims, and does not undertake or assume any duty, obligation or responsibility for any decisions, actions, reactions, responses, failure to act, or inaction, by Customer as a result of or in reliance on, in whole or in part, any Services or Reviewed Alerts provided by ShotSpotter, or for any consequences or outcomes, including any death, injury, or loss or damage to any property, arising from or caused by any such decisions, actions, reactions, responses, failure to act, or inaction. It shall be the sole and exclusive responsibility of the Customer to determine appropriate decisions, actions, reactions or responses, including whether or not to dispatch emergency responder resources. The Customer hereby expressly assumes all risks and liability associated with any and all action, reaction, response, and dispatch decisions, and for all consequences and outcomes arising from or caused by any decisions made or not made by the Customer in reliance, in whole or in part, on any Services provided by ShotSpotter, including any death, injury, or loss or damage to any property.

Any and all warranties, express or implied, of fitness for high risk purposes requiring fail-safe performance are hereby expressly disclaimed.

You and we each acknowledge and agree that the Service is not a consumer good, and is not intended for sale to or use by or for personal, family or household use.

The parties understand and agree that there are no third party warranties associated with the products or services delivered under this Agreement. **VENDOR PROVIDES NO WARRANTIES, EXPRESS OR IMPLIED, WITH REGARD TO THIRD PARTY COMPONENTS, AND VENDOR WILL NOT BE LIABLE FOR ANY FAILURE OF ANY THIRD PARTY COMPONENT TO FUNCTION AS EXPECTED OR INTENDED.**

8. YOUR OBLIGATIONS.

You acknowledge and agree that ShotSpotter's duties, including warranty obligations, and ability to perform its obligations to you shall be predicated and conditioned upon your timely performance of and compliance with your obligations hereunder, including, but not limited to:

A. You agree to pay all sums due under the purchase agreement or order as and when they are due pursuant to the terms of such agreement or order. Actual access and use of the ShotSpotter Service shall constitute evidence that the Service is active and the final payment is due.

B. You agree to use your best efforts to timely perform and comply with all of your obligations allocated to you in the Purchase Documents and/or other contract documents, including, without limitation, provisions regarding assisting ShotSpotter in obtaining sensor site permissions from premise owners or lessors, in locations reasonably acceptable to ShotSpotter. It is understood however, that ShotSpotter shall be responsible for securing from the City, premise owners or lessors all rights necessary to enter onto their premises to install sensors, and to place, operate and maintain such sensors on such premises. ShotSpotter's duties, including warranty obligations to you shall be predicated and conditioned upon your

timely performance of and compliance with your obligations set forth herein, and in the Purchase Documents.

C. You shall not permit any alteration, modification, substitution or supplementation of the ShotSpotter Service or web portal, or the combining, connection, merging, bundling, or integration of the ShotSpotter Service or web portal into or with any other system, equipment, hardware, software, technology, function or capability, without our prior written consent, which shall not be unreasonably withheld.

D. Unless otherwise expressly agreed in advance in writing by ShotSpotter, you shall not resell, transfer, distribute or allow access to the Service or web portal or any portion thereof, to any person other than the specific end-user previously identified to ShotSpotter in the Purchase Documents, and shall not authorize or appoint any contractors, subcontractors, original equipment manufacturers, value added integrators, systems integrators or other third parties to operate, have access to, or sublicense the Products.

E. In order to use the Service, Customer must have and maintain access to the World Wide Web to enable a secure https connection from the Customer's workstation to ShotSpotter's hosted services, either directly or through devices that access Web-based content. Customer must also provide all equipment necessary to make such (and maintain such) connection.

F. Customer may designate up to the number of users under Customer's account which corresponds to the access required by assigning unique passwords and user names. Customer will be responsible for the confidentiality and use of Customer's password and user names, and agrees that sharing passwords and/or user names with unauthorized users is prohibited.

G. You shall comply with all applicable laws, rules and regulations relating to the goods and services provided hereunder.

9. INTELLECTUAL PROPERTY RIGHTS; LIMITED LICENSE.

We retain all ownership of all intellectual property rights in and to all data, software, computer programs, related documentation, technology, knowhow and processes embodied in or made available to you in connection with the Service, and Software, including, without limitation, all patent rights, copyrights, trade secret rights, trademarks and service marks. Your rights to install and use the Data and Software are limited, and shall be strictly in accordance with the License set forth in Section 2 hereof. Any and all rights not granted expressly in such License are hereby reserved.

10. EXPORT CONTROL.

You acknowledge that the ShotSpotter Flex System is the subject of a Commodity Jurisdiction determination by the United States Department of State, and has been determined to be a controlled commodity, software and/or technology subject to the United States Export Administration Regulations of the U.S. Department of Commerce. Accordingly, no part of the Data, Software, ShotSpotter Flex System or any Gunshot Location System component thereof may be transferred, consigned, shipped, delivered,

received, exported or re-exported, nor may any technical data directly relating to any of the same or the underlying information or technology be disclosed, downloaded, uploaded, transmitted, received, furnished, or otherwise provided, to, by or through any person, government, country, or to any end-user, or for any end-uses, except in compliance with applicable U.S. export control laws administered by the U.S. Government, and any other applicable U.S. laws, including the sanctions laws administered by the U.S. Department of Treasury, Office of Foreign Assets Control (OFAC), the U.S. Anti-Boycott regulations. In this respect, no resale, transfer, or re-export of any ShotSpotter Flex System exported to you pursuant to a license from the U.S. Department of Commerce may be resold, transferred, or reported without prior authorization by the U.S. Government. Customer agrees not to export, re-export or engage in any "deemed export," or to transfer or deliver, or to disclose or furnish, to any foreign (non- U.S.) government, foreign (non-U.S.) person or end-user, or to any U.S. person or entity, any of the ShotSpotter Flex System, Gunshot Location System components, Data, Software, Services, or any technical data or output data or direct data product thereof, or any service related thereto, in violation of any such restrictions, laws or regulations, or without all necessary registrations, licenses and or approvals. Unless otherwise agreed and so specified in the Purchase Documents, you shall obtain and bear all expenses relating to any necessary determinations, registrations, licenses and/or exemptions with respect to its exportation, re-exportation or "deemed export" of the ShotSpotter Flex System, Data, Software or any Gunshot Location System Components or Services, as well as with respect to the disclosure or furnishing of any technical data or other information and services relating to any of the same.

In addition to compliance with the foregoing, and without limiting the generality thereof, Customer shall not disclose, discuss, download, ship, transfer, deliver, furnish, or otherwise export or re-export any such item(s) to or through: (a) any person or entity on the U.S Department of Commerce Bureau of Industry and Security's List of Denied Persons or Bureau of Export Administration's anti-proliferation Entity List; (b) any person on the U.S. Department of State's List of Debarred Parties; (c) any person or entity on the U.S. Treasury Department Office of Foreign Asset Control's List of Specially Designated Nationals and Blocked Persons; or (d) any other end-user or for any end-use prohibited by law or regulation, as any and all of the same may be amended from time to time, or any successor thereto.

11. PROTECTION OF CONFIDENTIAL INFORMATION.

Unless either party ("Receiving Party") obtains prior written consent from the other ("Disclosing Party"), the Receiving Party agrees that it will not reproduce, use for purposes other than those expressly permitted herein, disclose, sell, license, afford access to, distribute, or disseminate any information: i) obtained from the Disclosing Party in connection with the System purchase, installation or operation, and designated by it from time to time as confidential except as required by Ohio Public Records Law; ii) the documentation, use and operations manuals; and output data created or compiled by the ShotSpotter Flex System except as required by Ohio Public Records Law; iii) your use of the ShotSpotter Flex System or technology, your deployment methodology, results, or related facts except as required by Ohio Public Records Law; iv) the contractual terms and payment terms applicable to the purchase of the ShotSpotter Flex System or

technology, except as required by local law (collectively, "Confidential Information") Unless a section of the Purchase Document(s) specifically identifies the identity of Customer as Confidential Information, the fact that Customer is a customer of ShotSpotter shall not itself be considered Confidential Information, nor shall the name of any city in which the ShotSpotter Gunshot Location System is deployed be considered confidential information. Recipient's obligations under this section shall not apply to any of Discloser's Confidential Information that Recipient can document: (a) was in the public domain at or subsequent to the time such Confidential Information was communicated to Recipient by Discloser through no fault of Recipient; (b) was rightfully in Recipient's possession free of any obligation of confidence at or subsequent to the time such Confidential Information was communicated to Recipient by such Discloser; (c) was developed by employees or agents of Recipient independently of and without reference to any of Discloser's Confidential Information; or (d) was communicated by Discloser to an unaffiliated third party free of any obligation of confidence. A disclosure by Recipient of any of Discloser's Confidential Information (a) in response to a valid order by a court or other governmental body; (b) as otherwise required by law; or (c) necessary to establish the rights of either party under this Agreement shall not be considered to be a breach of this Agreement by such Recipient; provided, however, such Recipient shall provide prompt prior written notice thereof to such Discloser. Receiving Party shall use reasonable controls to protect the confidentiality of and restrict access to all such Confidential Information to those persons having a specific need to know the same for purposes expressly authorized herein, and render unreadable prior to discarding, all records containing our Confidential Information. In any event such controls shall not be less protective than those Receiving Party uses to secure and protect its own confidential, but not "Classified" or otherwise Government-legended, information.

12. NOTICES.

Any notice or other communication expressly required or permitted by this Agreement shall be in writing addressed to the attention of ShotSpotter at Sonya Strickler, VP – Finance & Controller, 7979 Gateway Boulevard, Suite 210 Newark, California 94560 with a copy to info@shotspotter.com or City of Toledo Police Department 525 N. Erie Street Toledo, Ohio 43604 with a copy to City of Toledo Department of Law One Government Center, Suite 2250 Toledo, Ohio 43604 c/o Director of Law. The party's addresses may be changed by written notice to the other party as provided herein.

13. FORCE MAJEURE.

In no event shall either party be liable for any delay or default in its performance of any obligation under this agreement acts of God or nature, war, terrorism, hurricanes, earthquakes, , strikes or other labor disputes, riots, or other acts of civil disorder embargoes or, or other causes beyond the performing parties reasonable control. At ShotSpotter's option and following notice to Customer, any of the foregoing causes shall be deemed to suspend such obligations of ShotSpotter so long as any such cause shall prevent or delay performance, and ShotSpotter agrees to make and Customer agrees to accept performance of such obligations whenever such cause has been remedied, unless Customer determines that termination is proper and provides written notice of its intent to do so within a reasonable amount of time.

14. DEFAULT; REMEDIES.

Upon the occurrence of a default by either party either may terminate this agreement, terminate this License to use the Service and Software, and proceed in any lawful manner to obtain all remedies available at law or equity in a court of competent jurisdiction located in Lucas County, Ohio.

15. LIMITATIONS ON LIABILITY.

In no event shall either party, or any of its affiliates or any of its/their respective directors, officers, members, attorneys, employees, or agents, be liable to the other party under any legal or equitable theory or claim, for lost profits, lost revenues, lost business opportunities, exemplary, punitive, special, or consequential damages, each of which is hereby excluded by agreement of the parties, regardless of whether such damages were foreseeable or whether any party or any entity has been advised of the possibility of such damages. In any event, except for its IP infringement indemnity obligations under section 6 hereof, ShotSpotter's cumulative liability for all losses, claims, suits, controversies, breaches or damages for any cause whatsoever (including, but not limited to, those arising out of or related to this agreement) and regardless of the form of action or legal theory shall not exceed two times the amount paid to ShotSpotter under this agreement, or the amount of insurance maintained by ShotSpotter available to cover the loss, whichever is greater. The foregoing limitations shall apply without regard to any failure of essential purpose of any remedies given herein.

16. GENERAL PROVISIONS.**A. NO AGENCY.**

Neither ShotSpotter nor any of its employees is an agent or representative of Customer and the Customer is solely responsible for obtaining any required authorizations from any governmental agency, body or commission and for compliance therewith.

B. COMPLIANCE WITH LAWS AND TAXES.

You shall comply with all applicable laws, statutes and regulations relating to the sale, distribution, and use of the Service and the performance of your duties and obligations hereunder. All prices are exclusive of all tariffs, customs duties, imposts, national, federal, provincial, state, and local VAT, excise, sales, use and similar taxes. You will be pay and be responsible for paying any and all such taxes and tariffs, when applicable.

C. EQUAL OPPORTUNITY CONTRACT CLAUSE AND OTHER FEDERAL REQUIREMENTS.

ShotSpotter acknowledges and agrees that the source of funding for this Agreement is federal grant money provided by the Department of Justice and therefore governed according to certain federal laws, regulations and rules. Therefore, ShotSpotter is committed to the provisions outlined in the Equal Opportunity Clauses of Executive Order 11246, (41 CFR 60- 1.4), section 503 of the Rehabilitation Act of 1973, (41 CFR 60-741.5(a)), section 402 of the Vietnam Era Veterans Readjustment Act of 1974, (41 CFR 60-250.5(a)), and,

the Jobs for Veterans Act of 2003, (41 CFR 60-300.5(a)) as well as any other regulations pertaining to these orders.

ShotSpotter acknowledges and agrees to comply with the Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended since this is a contract in excess of \$150,000 and must contain a provision that requires ShotSpotter to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). ShotSpotter acknowledges and agrees to report any violations to the Department of Justice and the Regional Office of the Environmental Protection Agency (EPA) with a copy to the City.

ShotSpotter acknowledges and agrees to comply with Debarment and Suspension (Executive Orders 12549 and 12689) requirements to the extent that no contract may be procured (see 2 CFR 180.220) to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." ShotSpotter acknowledges and agrees to comply with the SAM Exclusions that contain the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

ShotSpotter acknowledges and agrees to comply with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) as a contractor that has applied or bid for an award exceeding \$100,000 and acknowledges and agrees that it must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

D. SEVERABILITY AND INTERPRETATION.

If any provision, in whole or in part, of this Agreement and/or the Purchase Documents of which it is a part is held invalid or unenforceable for any reason, the invalidity shall not affect the validity of the remaining provisions, and there shall be substituted for the invalid provision a valid provision which most closely approximates the intent and economic effect of the invalid provision. No part or provision shall be interpreted in favor or against any party because such party or its counsel drafted the relevant provision. No course of dealing, usage, custom of trade, or communication between the parties shall modify or alter any of the rights or obligations of the parties under this Agreement and Purchase Document(s).

E. INTEGRATION, AMENDMENT AND WAIVER.

This Agreement, and the Purchase Document(s) of which it is a part, together with any other exhibits or appendices thereto, constitute the entire understanding between ShotSpotter and you. No other documents or representations shall be used in interpreting it. Any and all written or oral agreements heretofore existing between the parties are expressly cancelled and/or superseded. Any other document, proposal, specification, statement of work, marketing collateral, or representation which may vary, alter, amend or supplement these terms and conditions will not be binding unless agreed to in a writing signed by appropriate representatives of both ShotSpotter and Customer. No modification, variance, amendment or waiver of any part of Agreement or Purchase Document(s) shall be binding upon either party, whether written, oral, or in any other medium, unless made in writing and signed by authorized representatives of both parties. All the parties' rights and duties are material and time is of the essence; no waiver of any rights hereunder shall be deemed effective unless in writing executed by the waiving party; no waiver of either party's breach of any provision of this Agreement or Purchase Documents shall constitute a waiver of any prior or subsequent breach of the same or any other provision, and no failure to exercise, and no delay in exercising, any right(s) hereunder on either party's part shall operate as a waiver of any such right; all of the parties' rights are cumulative; and, no single or partial exercise of any right hereunder shall preclude further exercise of such right or any other right.

F. BENEFIT AND BURDEN; ASSIGNMENT.

Subject to the following provisions, this Agreement and the Purchase Documents of which they are a part shall be binding upon permitted successors and assigns and shall inure to the benefit of the parties and their respective permitted successors and assigns only. Notwithstanding that the Service and Software, and its output data may be used for law enforcement, military, public safety, and force protection purposes, there are no third party beneficiaries intended to benefit from these general terms and conditions of sale, or the agreement or order of which they are a part, except as may occur via an acquisition or merger involving ShotSpotter, neither party may assign or transfer this Agreement and the Purchase Documents of which they are a part, or any of the rights granted therein, in whole or in part, without the others express prior written consent. No assignee for the benefit of ShotSpotter's creditors, custodian, receiver, trustee in bankruptcy, debtor in possession, sheriff or any other officer of a court, or other person charged with taking custody of ShotSpotter's assets or business, shall have any right to continue or to assume or to assign these without ShotSpotter's express consent.

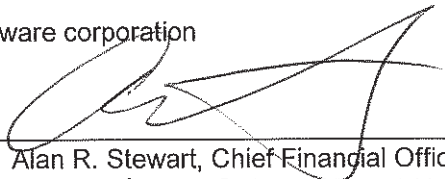
G. GOVERNING LAW AND DISPUTE RESOLUTION.

The validity, performance, and construction of this agreement shall be governed by the laws of the state of Ohio, without giving effect to the conflict of law principles thereof. The United Nations Convention on Contracts for the International Sale of Goods is expressly disclaimed and shall not apply. If the parties disagree as to any matter arising under this Agreement or the relationship and dealings of the parties hereto, then ShotSpotter and Customer shall promptly consult with one another and make diligent, good faith efforts

to resolve the disagreement, by negotiation. Should the dispute not be resolved within a reasonable time after commencement of such negotiations, it may be mediated before one or more mediators mutually acceptable to both parties. Costs of mediation shall be paid equally by the parties. If such effort is unsuccessful, any controversy or claim arising out of or relating to this Agreement or the validity or breach of any of the provisions thereof, or the relationship, dealings, rights, and obligations of the parties, or use of the Service may be brought in any federal or state court of competent jurisdiction located in Lucas County, Ohio..

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

ShotSpotter Inc, a Delaware corporation

By: 
Alan R. Stewart, Chief Financial Officer
Date: April 25, 2019

City of Toledo

By: _____
Wade Kapszukiewicz, Mayor

Approved as to Content:

Approved as to Form:

Toledo Police Department

Date

Department of Law

Date

to resolve the disagreement, by negotiation. Should the dispute not be resolved within a reasonable time after commencement of such negotiations, it may be mediated before one or more mediators mutually acceptable to both parties. Costs of mediation shall be paid equally by the parties. If such effort is unsuccessful, any controversy or claim arising out of or relating to this Agreement or the validity or breach of any of the provisions thereof, or the relationship, dealings, rights, and obligations of the parties, or use of the Service may be brought in any federal or state court of competent jurisdiction located in Lucas County, Ohio..

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

ShotSpotter Inc, a Delaware corporation
By: _____, an _____ company

By: _____
_____, Chief Executive Officer
Date: _____, 2019

City of Toledo
By: Karen Poore
Wade Kapszukiewicz, Mayor

Approved as to Content:

[Signature]
Toledo Police Department
4/19/19
Date

Approved as to Form:

[Signature]
Department of Law
4/19/19
Date

Exhibit A

ShotSpotter Gunshot Location System®
Reviewed Alert Service Levels

Summary

Under the terms and conditions of the ShotSpotter Services Agreement between ShotSpotter, Inc. ("ShotSpotter") and Customer, ShotSpotter commits to meet or exceed the following Service Level Agreement (SLA) standards as it provides its ShotSpotter Gunshot Location Services¹:

Service	SLA and Measurement
Gunshot Detection & Location	90% of unsuppressed, outdoor gunfire incidents, using standard, commercially available rounds greater than .25 caliber, inside the Coverage Area will be detected and located within 25 meters of the actual gunshot location.
Reviewed Alerts	90% of gunshot incidents will be reviewed and published in less than 60 seconds.
Service Availability	The ShotSpotter Gunshot Location System service will be available to the Customer 99.9% of the time with online access to ShotSpotter data, excluding scheduled maintenance windows.

Gunshot Detection & Location Performance

ShotSpotter will detect and accurately locate to within 25 meters of the actual gunshot location 90% of unsuppressed, outdoor gunshots fired inside the contracted coverage area using standard, commercially available rounds greater than .25 caliber.

Reviewed Alerts Service

The ShotSpotter real-time Incident Review Center (IRC) will review at least 90% of all gunfire incidents within 60 seconds. This human review is intended to confirm or change the machine classification of the incident type, and, depending on the reviewer's confidence level that the incident is or may be gunfire, will result in an alert ("Reviewed Alert") sent to the Customer's **Alert Console** or **ShotSpotter App**, based on the following criteria:

¹ See attached "ShotSpotter – Definition of Key Terms" for a complete definition of terms associated with this SLA and further details in the expanded definitions listed below the Summary. The basis for this SLA and performance measurement will be total gunshot incidents as defined by the Definition of Key Terms.

Incident Type	Action
High confidence incident is gunfire	Reviewed Gunfire Alert, (Single Gunshot "SG" or Multiple Gunshots "MG") sent to Customer's Alert Console and/or ShotSpotter App
Uncertain if incident is gunfire or not	Reviewed Possible Gunfire ("PG") Alert sent to Customer's Alert Console and/or ShotSpotter App
Low confidence incident is gunfire	No alert will be sent; incident available for Customer review in the incident history available through the Investigator Portal

Reviewed Alerts are sent to the customer's Alert Console and/or ShotSpotter App. Information in a Reviewed Alert will include the following:

- "Dot on the map" with latitude and longitude indicating the location of the incident.
- Parcel address closest to location of the incident.
- When available, additional situational awareness data points may be included, such as:
 - Qualitative data on the type/severity of incident: Fully automatic, High Capacity
 - Other comments (if any)

The Alerts Console, ShotSpotter App, and Investigator Portal provide the Customer with full and immediate access to incident history including information ShotSpotter uses in its internal review process. This information includes, among other things, the initial incident classification and any reclassifications of an incident, incident audio wave forms, and incident audio files. This data access is available as long as the Customer is under active subscription.

Service Availability

The ShotSpotter Gunshot Location Service² will be able to detect gunfire and available to users with online access to ShotSpotter data 99.9% of the time, on a 24x7 by 365 day per year basis, excluding: a) scheduled maintenance periods which will be announced to Customer in advance; b) select holidays; and c) third party network outages beyond ShotSpotter's control.

Customer SLA Credits

Each Service Level measurement shall be determined quarterly, the results of which will be reviewed during the periodic account review meetings with Customer. For each calendar quarter that ShotSpotter does not meet at least two of the three above standards, a fee reduction representing one free week of service (for the affected Coverage Area) for each missed quarter shall be included during a future Customer renewal; provided that two (2) consecutive quarters of not meeting these standards are grounds for termination.

² Flex service includes all database, applications, and communications services hosted by ShotSpotter, Inc. at our data center and specifically exclude Customer's internal network or systems or 3rd party communications networks, e.g. Verizon, AT&T or Customer's Internet Service Provider.

Service Level Exclusions and Modifications

ShotSpotter takes commercially reasonable efforts to maintain Service Levels at all times. However, Service Level performance during New Year's Eve and Independence Day and the 48 hour periods before and after these holidays, are specifically excluded from Service Level standards. During these excluded periods, because of the large amount of fireworks activity, ShotSpotter uses fireworks suppression techniques³.

The ShotSpotter sensors send incident information to the ShotSpotter cloud via third party cellular, wireless or wired networks. ShotSpotter is not responsible for outages on the third-party networks.

Service Failure Notification

Should ShotSpotter identify any condition (disruption, degradation or failure of network, cloud, servers, sensors etc.) that impacts ShotSpotter's ability to meet the Gunshot Detection & Location standard (above), ShotSpotter will proactively notify the Customer with: a) a brief explanation of the condition; b) how the Customer's service is affected; and c) the approximate timeframe for resolution. ShotSpotter will also notify the Customer once any such condition is resolved.

Customer Responsibilities

The purpose of the Reviewed Alert service is to provide incident data to the Customer, reviewed, analyzed and classified in the manner described above. However, it is the sole responsibility of the Customer to interpret the data provided, and to determine any appropriate follow-up reaction or response, including whether or not to dispatch emergency responder resources based on a Reviewed Alert. ShotSpotter does not assume any obligation, duty or responsibility for reaction, response, or dispatch decisions, which are solely and exclusively the responsibility of Customer, or for the consequences or outcomes of any decisions made or not made by the Customer in reliance, in whole or in part, on any services provided by ShotSpotter.

Customer must inform ShotSpotter when Verified Incidents of gunfire are missed by the ShotSpotter Gunshot Location System in order to properly calculate Performance Rate, as defined below.

Customer is responsible for providing any required workstations, mobile devices and internet access for the Alert Console, ShotSpotter App or Investigator Portal.

³ ShotSpotter will put the ShotSpotter system into "fireworks suppression mode" during this period in order to reduce the non-gunfire incidents required for human classification. ShotSpotter will formally inform the customer prior to the system being placed in fireworks suppression mode and when the mode is disabled. While in fireworks suppression mode, the incident alerts determined to be fireworks are not sent to the reviewer nor the Alert Console nor ShotSpotter App, however these non-gunfire incidents will continue to be stored in the database for use if required at a later time.

ShotSpotter – Definition of Key Terms

The ShotSpotter Gunshot Location System will provide data for correct detection and accurate location for ninety percent (90%) of detectable (outdoor, unsuppressed) community gunfire which occurs within a coverage area, the "Coverage Area", provided the measurement is Statistically Significant, as defined below. This performance rate shall be calculated as a percentage as follows:

$$\text{Performance Rate} = \frac{\text{NumberAccuratelyLocated}}{(\text{NumberAccuratelyLocated} + \text{NumberNotDetected} + \text{NumberMislocated})}$$

where the "Performance Rate" is a number expressed as a percentage, "NumberAccuratelyLocated" is the number of "Gunfire Incidents" occurring within the Coverage Area during the specified period for which the ShotSpotter produced an Accurate Location, NumberMislocated is the number of Verified Incidents (a "Verified Incident" is an incident where Customer has physical or other credible evidence that gunfire took place) for which the ShotSpotter produced an inaccurate location (i.e., a Mislocated Incident), and NumberNotDetected is the number of Verified Incidents for which the ShotSpotter failed to report a location at all (i.e., Missed Incidents).

An "Accurate Location" shall mean an incident located by the ShotSpotter to a latitude/longitude coordinate that lies within a 25-meter radius of the confirmed shooters location (25 meters = approximately 82 feet). "Detectable Gunfire" incidents are unsuppressed discharges of ballistic firearms which occur fully outdoors in free space (i.e. not in doorways, vestibules, windows, vehicles, etc.) using standard commercially available rounds of caliber greater than .25.

ShotSpotter Review Period is measured as the period commencing when the Incident Review Center (IRC) receives the alert and the first audio download to the time it is published to the customer

ShotSpotter performance is guaranteed after a "Statistically Significant" set of incidents has been detected in accordance with timeframes set forth herein and following DQV and commercial system acceptance. Because the ShotSpotter is designed to cover the indigenously occurring, community-generated gunfire (which is typically well distributed throughout the Coverage Area), performance should not be construed to mean that 90% of gunfire fired at any given location within the Coverage Area will be detected and located within the guaranteed accuracy.

The ShotSpotter Gunshot Location system is not a "point protection" system and is therefore not designed to consistently detect gunfire at every single location within the Coverage Area, but rather to Accurately Locate 90% of the Detectable Incidents in aggregate throughout the entire Coverage Area. There may be certain locations within the Coverage Area where obstacles and ambient noise impede and/or overshadow the propagation of acoustic energy such that locating the origin at those positions is inconsistent or impossible. The Performance Rate calculation is thus specifically tied to the Community Gunfire across the entire Coverage Area.

Statistically Significant shall be defined as measurements and calculations which shall be performed as follows: (a) Across an entire Coverage Area; (b) Aggregating over a period of at least 30 days under weather conditions seasonally normal for the area; and (c) Provided that the total number of gunfire incidents being counted is equal to or greater than: (i) thirty (30) incidents for systems of up to three (3) square miles of Coverage Area, or (ii) ten (10) incidents multiplied by the number of square miles of Coverage Area for systems where one or more Coverage Areas are three (3) square miles or larger.