LogRhythm Global End User License Agreement

Important – read this carefully before installing, using or electronically accessing this proprietary product.

This LogRhythm Global End User License Agreement, which incorporates the applicable attached Schedules and any Statements of Work and Orders agreed by the parties ("**Agreement**"), is a legal agreement between LogRhythm, Inc. ("**LogRhythm**") and the business entity that you ("**You**") are acting on behalf of ("**Customer**") as the purchaser of the LogRhythm hardware, services and/or the end user of the LogRhythm software accompanying this Agreement, which includes the object code version of the software and may include associated media, printed materials and documentation.

You agree that You are an employee or agent of Customer and are entering into this Agreement to purchase the hardware, services and/or obtain the software for use by Customer for Customer's own business purposes. You hereby agree that You enter into this Agreement on behalf of Customer and that You have the authority to bind Customer to the terms and conditions of this Agreement.

You will be required to indicate your agreement to these terms and conditions in order to use the software. By installing, downloading, configuring, accessing, or otherwise using the hardware or the software, including any updates, upgrades, or newer versions, You acknowledge that You have read this Agreement, understand this Agreement, and that Customer agrees to be bound by all of the terms of this Agreement.

This Agreement includes and incorporated attachment as follows:

1. If you purchase the LogRhythm products and/or services in the APJ Region (as defined below), Schedule A is incorporated into this Agreement
2. If you purchase the LogRhythm, products and/or services in Europe (excluding Turkey), Schedule B is incorporated into this Agreement.
3. If you purchase the LogRhythm products and/or services in the Middle East, Turkey and/or Africa, Schedule C is incorporated into this Agreement.
4. If you purchase the LogRhythm products and/or services in North America, Central America, South America or any other country or territory not specifically referenced above, Schedule D is incorporated into this Agreement.

For purposes of this Agreement, "APJ Region" means Japan, South Korea, China, Taiwan, Myanmar, India, Pakistan, Nepal, Bangladesh, Thailand, Vietnam, Philippines, Cambodia, Malaysia, Singapore, Australia, New Zealand, and the Pacific Islands.

1. DEFINITIONS.

1.1 "**Affiliate**" means, with respect to a party, any other entity that directly or indirectly controls, is controlled by or is under common control with such entity, where "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such entity through the ownership of fifty percent (50%) or more of the outstanding voting securities (but only for as long as such entity meets these requirements).

1.2 "**Appliance**" means a Product comprised of the Hardware and the Software installed on that Hardware.

1.3 "**Australian Consumer Law**" means Schedule 2 to the *Competition and Consumer Act 2010* (Cth).

1.4 "**Authorized Reseller**" means a reseller, distributor or partner authorized and approved by LogRhythm to resell the Products, Cloud Services and related services.

1.5 "**Cloud Service**" means a software as a service or other cloud-based offering that LogRhythm provides using the Software.

1.6 "**Cloud Service Subscription**" means a right to access and use a LogRhythm Cloud Service for the duration specified in the applicable Order.

1.7 "**Customer Data**" means Customer Information (as defined in Section 11) that is (a) disclosed or provided to LogRhythm by or on behalf of Customer or (b) collected or received from Customer by LogRhythm.

1.8 "**Documentation**" means the user manuals provided to Customer with the Software, Hardware or Appliance or cloud Service upon delivery or activation, in either electronic, online help files or hard copy format. All Documentation is provided in English.

1.9 "**Delivery Date**" means the date of delivery of the applicable Appliance, Hardware or, if Software only, the Software.

1.10 "**Error**" shall mean a reproducible defect in a Product which causes the Product not to operate substantially in accordance with the Documentation.

1.11 "**Intellectual Property Rights**" means all intellectual and industrial property rights throughout the world, including but not limited to copyright, trademarks, service marks, trade secrets, patents, patent applications, moral rights, contract rights and other proprietary rights.

1.12 "**Hardware**" means the hardware supplied by LogRhythm as set forth on an Order.

1.13 "**License Subscription**" means a license to use the Software for the License Subscription Term.

1.14 "**Non-Excludable Provision**" has the meaning given in Section 10.3.

1.15 "**Order**" means ordering documentation between Customer and LogRhythm or an Authorized Reseller and may include a signed quotation from LogRhythm or a Customer purchase order accepted by LogRhythm or the Authorized Reseller.

1.16 "**Perpetual**" means the license right to use the Software indefinitely.

1.17 "**Personal Information**" means personal information, as that term is defined in the *Privacy Act 1988* (Cth), that is provided to, or obtained or accessed by, either party in the course of performing its obligations under this Agreement.

1.18 "**PPSA**" means the *Personal Property Securities Act 2009* (Cth).

1.19 "**Products**" means the Software, Hardware, and/or Appliances.

1.20 "**Privacy Legislation**" means the *Privacy Act 1988* (Cth) and any legislation in any non-Australian jurisdiction (to the extent that either party or any of its Personal Information is subject to the laws of that jurisdiction) affecting privacy, Personal Information or the collection, handling, storage, processing, use or disclosure of personal data.

1.21 "**Software**" means the LogRhythm software programs identified in an Order, including Third Party Software, and any Upgrade, Update or Maintenance Release (as defined in Exhibit A) that LogRhythm provides to Customer pursuant to the Support Services.

1.22 "**Subscription License Term**" is the duration of a Subscription License, as specified in the applicable Order.

1.23 "**Support Services**" means LogRhythm's technical support and maintenance services set forth in Addendum.

1.24 "**Support Services Fees**" has the meaning given in Section 6.1.

1.25 "**Third Party Software**" means any software that is provided with the Software but that is not owned by LogRhythm.

1.26 "**User**" means individuals or a unique entry in Customer's directory of record for customers employees, which includes but is not limited to employees, contractors or agents of Customer actively utilizing Customer's IT infrastructure and any end customers monitored by Customer. End customers can include unique active directory entries of Customer's

customers for example, a payment, billing, or authentication system used by the Customer to conduct business with the end customers.

2.   **LICENSE GRANT AND OTHER RIGHTS.**

2.1   **License Grant**. Subject to the terms and conditions of this Agreement and payment by Customer of all license fees due for the Software, LogRhythm grants to Customer during the Term (either a Perpetual license or Subscription license, as specified Order), a non-exclusive, non-transferable (except as set forth in Section 13.3) license to use the Software solely for Customer's internal business purposes in accordance with the Documentation and any limitations set forth in this Agreement or the Order. If Customer has purchased an Appliance, the Software license may only be used on the Appliance with which the Software is delivered. If Customer elects to deploy the Software for use in another host environment or another virtual environment (including any copy of the Software for backup and disaster recovery purposes), each instance requires its own license for which Customer will need a license key which shall be provided by LogRhythm upon request of Customer. The Software shall be deemed delivered when a license key which unlocks the Software is provided to Customer.

2.2   **License Metrics**. If Customer's Product is licensed by: (a) messages per second ("MPS") as specified in the Order, the MPS use limitation of the license refers to a rolling 24-hour average of messages per second received by the Software whereby "message" means each individual log or system event received by the Product including without limitation flat file, SNMP, SMTP, netflow (j flow and S flow), syslog or other event or system record. Customer may exceed the MPS limitation by up to 10% without additional charge, and Customer will not be charged for a one-time anomalous event that causes a spike in MPS usage above the specified MPS limitation; (b) network bandwidth (specified in the Order as a bandwidth or bandwidth per second such as 1GB or 1GB/second), the network bandwidth use limitation refers to a rolling 15-minute average of network bandwidth usage per second; (c) "Identity", an Identity is a unique person or service account. A person-based Identity may have multiple identifiers such as user accounts, email addresses, and phone numbers. A service account is a user account that is created explicitly to provide an authentication context for a computer or set of computers and/or services running on that computer. An Identity license is required for each unique person-based Identity and each unique service account; or (d) User, as defined above, is based on Customers identity directory of record for its User count at the inception of the Order.

2.3   **No Rights for Affiliate Usage**. Customer is the only entity that may use the Software under this Agreement and the rights granted to Customer under this Agreement do not extend to any Customer Affiliate. Customer shall not permit any Customer Affiliates to use the Software on behalf of Customer or on behalf of such Affiliates. Any Customer Affiliate that desires to license the Software may enter into a separate Order with LogRhythm utilizing these Terms which shall be a separate agreement between LogRhythm and such Customer Affiliate.

2.4   **System Files**. All SQL Server database files and transaction logs (collectively "System Files"), used by an Appliance must reside on either the Appliance or an external storage device ("Supported Equipment"). Notwithstanding the foregoing, System Files do not include LogRhythm archive files.

2.5   **Restrictions on Use**. Except as expressly permitted by this Agreement, Customer shall not: (a) modify, adapt, alter, translate, or create derivative works from the Software, Cloud Services or Documentation; (b) rent, lease, loan, sublicense, distribute, sell or otherwise transfer the Software, Cloud Services or Documentation to any third party; (c) use the Software or Cloud Services in a service bureau or time sharing arrangement; (d) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code for the Software or Cloud Services; (e) otherwise use or copy the Software, Cloud Services or Documentation except as expressly permitted in this Agreement; or (f) disclose to any third party the results of any benchmark tests or other evaluation of the Software or Cloud Services. If Customer will utilize the Cloud Services for any purpose other than the detection, mitigation, containment and eradication of cyberthreats, Customer is responsible for notice to, and obtain consents from, individuals as required by applicable law.

3.   **CLOUD SERVICES**. If Customer orders and pays for Cloud Services, the terms and conditions set forth in the Cloud Services Addendum located on the LogRhythm website at https://gallery.logrhythm.com/terms-and-conditions/addendums/logrhythm-cloud-services-addendum-8-2019.pdf] and incorporated herein or attached to this Agreement shall apply to such Cloud Services in addition to the terms of this Agreement.

4.   **HARDWARE.** If Customer orders and pays for Hardware from LogRhythm, the terms and conditions set forth in the Hardware Addendum located on the LogRhythm website at https://gallery.logrhythm.com/terms-and-conditions/addendums/logrhythm-hardware-procurement-addendum-8-2019.pdf and incorporated herein or attached to this Agreement shall apply to such Hardware purchases.

5.   **Evaluation License Grant.** Notwithstanding Section 2 of this Agreement, if Customer is provided with evaluation Products or Cloud Services, then the term of use for evaluation will be limited to the free trial period specified in the Order or as otherwise determined by LogRhythm (the "**Evaluation Period**"). During the Evaluation Period, LogRhythm grants to Customer a limited, non-exclusive, non-transferable, non-sublicensable license to install and use the evaluation Products or access and use the evaluation Cloud Service: (a) for internal use in a non-production capacity; and (b) to test and evaluate the Products or Cloud Service to assist Customer in its purchase decision. Any evaluation hardware provided to Customer

shall remain the property of LogRhythm. Upon the expiration of the Evaluation Period the license or right of use granted to Customer will terminate and, within five (5) days after such termination, Customer will, at its own expense, uninstall all copies of the evaluation Software, and return the evaluation Hardware, if applicable, to LogRhythm. **The evaluation of the Products are provided "AS IS" and no warranty obligations of LogRhythm will apply and Support Services obligations do not apply to any evaluation Services.**

6.   SUPPORT SERVICES; DEPLOYMENT; TRAINING.

6.1   Support Services. Support Services shall be subject to terms and conditions set forth in the Support Services Addendum located on the LogRhythm website at [https://gallery.logrhythm.com/terms-and-conditions/addendums/logrhythm-support-services-addendum-8-2109.pdf and incorporated herein or attached to this Agreement. The initial Support Services term for perpetual Software licenses is one (1) year beginning on the Delivery Date unless otherwise specified in the Order ("Initial Term"). Thereafter, Support Services shall renew automatically for additional one (1) year terms unless Customer elects to terminate Support Services by providing LogRhythm with at least thirty (30) days' written notice prior to the end of the applicable annual Support Services term. Support Services for Subscriptions are included in the Subscription Fee and Support Services are provided during the Subscription Term. Upon termination of such Support Services for a Perpetual license, Customer may continue to use the Software in accordance with this Agreement without the benefits provided under Addendum (Support Services). Support Services Fees for the Initial Term are set forth in the applicable Order and are invoiced on the Delivery Date. LogRhythm may increase Support Services Fees for a Support Services renewal term up to seven percent over the prior year's Support Services Fees.

6.2   Professional Services. Subject to payment of the professional service fees ("**Professional Services Fees**") set forth in an Order, LogRhythm shall provide to Customer the professional services specified in the Order and in accordance with the Professional Services Addendum located on the LogRhythm website at https://gallery.logrhythm.com/terms-and-conditions/addendums/logrhythm-professional-services-addendum-8-2019.pdf and incorporated herein or attached to this Agreement ("**Professional Services**"). Unless otherwise specified in an Order Customer must use any contracted Professional Services within one year of the effective date of the Order for Professional Services. Unless otherwise expressly stated in an Order, Customer shall pay all of LogRhythm's reasonable travel, meals and lodging costs and expenses incurred by LogRhythm in connection with the provision of all services by LogRhythm at Customer's facilities under this Agreement. Upon Customer's request, LogRhythm shall submit written evidence of each such expenditure to Customer prior to receiving reimbursement of such costs and expenses.

6.3   Training. Subject to payment of any training fees ("**Training Fees**"), Customer may obtain training services from LogRhythm in accordance with the applicable Order ("**Training Services**"). Customer must use any contracted Training Services within fifteen months of the date of purchase of such Training Services.

7.   FEES AND PAYMENT.

7.1   Payment Customer shall pay LogRhythm or the Authorized Reseller the applicable fees specified in the Order ("Fees"). Unless otherwise expressly provided in this Agreement, LogRhythm shall invoice Customer on the Delivery Date and Customer shall pay all invoices within thirty (30) days from the date of the invoice. Fees exclude, and Customer shall make all payments of fees to LogRhythm free and clear of, all applicable sales, use, and other taxes (excluding taxes based on LogRhythm's income) and all applicable export and import fees, customs duties and similar charges. If LogRhythm has a legal obligation to pay or collect taxes for which Customer is responsible under the Agreement, then the appropriate amount shall be invoiced to and paid by Customer, unless Customer specifies in the applicable Order that it claims tax exempt status for amounts due under the Agreement and provides LogRhythm a valid tax exemption certificate (authorized by the applicable governmental authority) at least five (5) Business Days prior to the date of the applicable LogRhythm invoice. LogRhythm may charge interest on all late payments at a rate of one and one-half percent (1½%) per month or the maximum rate permitted by applicable law; whichever is less, from the due date until paid. All Fees are non-refundable unless otherwise expressly stated herein. If Customer purchases product or services through an Authorized Reseller, price and payment terms are between Customer and the Authorized Reseller.

7.2   Reports Audit Rights. LogRhythm may periodically run a report to determine the number of MPS Customer is utilizing with the Products. LogRhythm may audit or to appoint an independent audit firm selected by LogRhythm to audit Customer's records relating to Customer's use of the Products pursuant to this Agreement to verify that Customer has complied with the terms of this Agreement and to verify Customers compliance with the license rights for the Products licensed. Any audit shall be conducted no more than once in any period of 12 consecutive months during Customer's normal business hours and upon at least 15 days' prior written notice. The audit shall be conducted at LogRhythm's expense unless the audit reveals that Customer has underpaid the amounts owed to LogRhythm by 5% or more, in which case Customer shall reimburse LogRhythm for all reasonable costs and expenses incurred by LogRhythm in connection with such audit. Customer shall promptly pay to LogRhythm any amounts owed plus interest as provided in Section 7.1.

8.   WARRANTY.

8.1   Product Warranty. For ninety (90) days after the Delivery Date ("**Software Warranty Period**"), LogRhythm warrants that the Product, when used in accordance with the instructions in the Documentation, shall operate as described

in the Documentation in all material respects. LogRhythm does not warrant that Customer's use of the Product will be error-free or uninterrupted. LogRhythm shall, at its own expense and as its sole obligation and Customer's exclusive remedy for any breach of this warranty, (a) correct any reproducible Error in the Product reported to LogRhythm by Customer in writing during the Warranty Period, or (b) if LogRhythm determines that it is unable to correct the Error or replace the Product, Customer may terminate this Agreement and, LogRhythm shall refund to Customer all Product and Support Service fees actually paid for the defective Product, in which case Customer's right to use the Software shall terminate.

8.2   Disclaimers. All express or implied guarantees, warranties, representations, or other terms and conditions relating to this Agreement or its subject matter which are not contained in this Agreement, are excluded from this Agreement to the maximum extent permitted by law.

9.   INFRINGEMENT CLAIMS.

9.1   Indemnity. LogRhythm shall defend Customer at LogRhythm's expense, against any claim demand, suit, or proceeding brought against Customer by a third party alleging that Software infringes or misappropriates any third party's Intellectual Property Rights (each, a "**Claim**"), and LogRhythm shall indemnify Customer from damages , attorney's fees and costs finally awarded against Customer as a result of, or for amounts paid by Customer under a settlement approved by LogRhythm in writing of a Claim. The foregoing obligations are conditioned on Customer (a) notifying LogRhythm promptly in writing of the Claim, (b) giving LogRhythm sole control of the defense thereof and any related settlement negotiations, and (c) reasonably cooperating and, at LogRhythm's request and expense, assisting in such defense.

9.2   Injunction. If the Product becomes, or in LogRhythm's opinion is likely to become, the subject of an infringement claim, LogRhythm may, at LogRhythm's discretion and at no cost to Customer (a) procure for Customer the right to continue using the Product, or (b) replace or modify the Product so that it becomes non-infringing and remains functionally equivalent; or (c) if in LogRhythm's reasonable opinion, neither (a) or (b) option is commercially viable, notify Customer in writing that this Agreement will terminate on the date specified in the notice of termination issued by LogRhythm to Customer. If the Agreement is terminated under this Section 9.2: (i) For Products, LogRhythm will refund Customer the fees paid for such Product computed according to a thirty-six (36) month straight-line amortization schedule beginning on the Delivery Date and Customer will be entitled to terminate any Support Services related to such Product and if Customer elects to do so, those Support Services will terminate on the date specified in the notice of termination issued by Customer to LogRhythm and LogRhythm will refund to Customer the unexpired portion of the Support Services Fees.

9.3   Exclusions. Notwithstanding the foregoing, LogRhythm shall have no obligation under this Section 9.3 or otherwise with respect to any Claim to the extent based on: (a) any use of the Product not in accordance with this Agreement or the Documentation; (b) any use of the Product in combination with other products, hardware, equipment, or software not provided by LogRhythm if the Product, or use thereof would not infringe without such combination; (c) use of any release of the Software other than the most current release made available to Customer; provided that LogRhythm notified Customer that any Update to the Software could avoid infringement and further provided that LogRhythm will provide indemnity for use up to the date of such notification; or (d) any modification of the Software by any person other than LogRhythm or its authorized agents or subcontractors. Section 9 states LogRhythm's entire liability and Customer's exclusive remedy for infringement claims and actions.

10.   LIMITATION OF LIABILITY.

10.1   Subject to this Section 10 and LogRhythm's obligations under the Non-Excludable Provisions, and to the maximum extent permitted by law, in no event will either party be liable under this Agreement for any consequential, indirect, exemplary, special, or incidental damages, damages for any loss or corruption of data, loss of profits, revenue, goodwill or anticipated savings, or the cost of procurement of substitute goods or services, arising from or relating to this Agreement, whether in contract, tort (including negligence), in equity, under statute, under an indemnity, whether or not such loss or damage was foreseeable and even if such party has been advised of the possibility of the loss or damage.

10.2   Nothing in this Agreement excludes, restricts or modifies any right or remedy, or any guarantee, warranty or other term or condition, implied or imposed by any legislation which cannot lawfully be excluded or limited. This may include the Australian Consumer Law, which contains guarantees that protect the purchasers of goods and services in certain circumstances.

10.3   If any guarantee, warranty, term or condition is implied or imposed in relation to this Agreement under the Australian Consumer Law or any other applicable legislation and cannot be excluded (a "**Non-Excludable Provision**"), and LogRhythm is able to limit Customer's remedy for a breach of the Non-Excludable Provision, then the liability for breach of the Non-Excludable Provision is limited to one or more of the following at LogRhythm's option:

(a)   in the case of goods, the replacement of the goods or the supply of equivalent goods, the repair of the goods, the payment of the cost of replacing the goods or of acquiring equivalent goods, or the payment of the cost of having the goods repaired; or

(b)   in the case of services, the supplying of the services again, or the payment of the cost of having the services supplied again.

10.4   Subject to this Section 10.4 and LogRhythm's obligations under the Non-Excludable Provisions, and to the maximum extent permitted by law, the maximum aggregate liability of each party for all claims under or relating to this Agreement or its subject matter, whether in contract, tort (including without limitation negligence), in equity, under statute, under an indemnity or otherwise, shall not exceed the amount of the Fees paid by Customer to LogRhythm during the twelve (12) month period preceding the events giving rise to such liability.

10.5   The limits on liability set out in this Section 10.5 shall not apply in respect of:

    (a)   LogRhythm's liability under the indemnity provisions in section 9.1;

    (b)   Customer's breach of LogRhythm's Intellectual Property Rights;

    (c)   any breach of section 11;

    (d)   liability for fraud or willful misconduct; or

    (e)   Customer's obligation to pay fees or charges to LogRhythm under or in connection with this Agreement.

11.   CONFIDENTIALITY AND PRIVACY.

11.1   Confidential Information. For the purposes of this Section 11, "**Confidential Information**" means information that is disclosed by a party ("**Discloser**") to the other party ("**Recipient**"), or which Recipient has access to in connection with this Agreement, that:

    (a)   should reasonably have been understood by Recipient to be proprietary and confidential to Discloser or to a third party, including because of the circumstances of disclosure;

    (b)   is designated by Discloser as confidential, including by the use of legends or other markings; or

    (c)   is by its nature confidential. Confidential Information may be disclosed in written or other tangible form (including on magnetic media) or by oral, visual or other means. Confidential Information includes, without limitation, information of or relating to Discloser's present or future products, know-how, formulas, designs, processes, ideas, inventions and other technical, business and financial plans, processing information, pricing information, specifications, research and development information, customer lists, the identity of any customers or suppliers, forecasts and any other information relating to any work in process, future development, marketing plans, strategies, financial matters, personnel matters, investors or business operations of Discloser, as well as the terms of this Agreement.

11.2   Protection of Information. Recipient shall not use any Confidential Information of Discloser for any purpose not expressly permitted by the Agreement and shall disclose the Confidential Information of Discloser only to the employees or contractors of Recipient who have a need to know such Confidential Information for purposes of the Agreement and who are under a duty of confidentiality no less restrictive than Recipient's duty hereunder. Recipient shall protect Discloser's Confidential Information from unauthorized use, access, or disclosure in the same manner as Recipient protects its own confidential or proprietary information of a similar nature and with no less than reasonable care.

11.3   Exceptions. Recipient's obligations under Section 11.2 with respect to any Confidential Information of Discloser shall terminate only to the extent that such information: (a) was already known to Recipient at the time of disclosure by Discloser; (b) was disclosed to Recipient by a third party who had the right to make such disclosure without any confidentiality restrictions; (c) is, or through no fault of Recipient has become, generally available to the public; or (d) was independently developed by Recipient without access to, or use of, Discloser's Confidential Information. In addition, Recipient shall be allowed to disclose Confidential Information of Discloser to the extent that such disclosure is: (i) approved in writing by Discloser prior to any disclosure; (ii) necessary for Recipient to enforce its rights under the Agreement in connection with a legal proceeding; or (iii) required by law or by the order of a court of similar judicial or administrative body, or in order to comply with any rules or regulations of any stock exchanges, provided that Recipient notifies Discloser of such required disclosure promptly and in writing and cooperates with Discloser, at Discloser's request and expense, in any lawful action to contest or limit the scope of such required disclosure.

11.4   Return of Information. Except as otherwise expressly provided in this Agreement, Recipient shall return to Discloser or destroy all Confidential Information of Discloser in Recipient's possession or control and permanently erase all electronic copies of such Confidential Information promptly upon the written request of Discloser. Recipient shall certify in writing signed by an officer of Recipient that it has fully complied with its obligations under this Section 11.4.

11.5   Privacy. If either party collects, uses, discloses, transfers or otherwise handles any Personal Information in connection with this Agreement, it must comply with all applicable Privacy Legislation.

12.   TERM AND TERMINATION.

12.1   Term. The "Term" of a Perpetual Term Agreement continues until terminated as provided in Section 12.2. The "Term" of a Subscription Term Agreement expires at the end of the Subscription Term unless the Subscription Term is renewed by the parties.

12.2   Termination. Either party may terminate the Agreement if the other party breaches any material provision of the Agreement and does not cure such breach within thirty (30) days after receiving written notice thereof.

12.3   Refund or Payment upon Termination. If this Agreement is terminated by Customer in accordance with Section 12.2 (Termination), LogRhythm will refund Customer: any prepaid, unused Fees for services.;. If this Agreement is

terminated by LogRhythm in accordance with Section 12.2, Customer will pay any unpaid Fees covering the remainder of the applicable term of all Orders. In no event will termination relieve Customer of its obligation to pay any Fees payable to LogRhythm prior to the effective date of termination.

12.4   Effects of Termination. Upon termination or expiry of this Agreement (i) all licensed rights granted in this Agreement shall immediately terminate, and Customer will lose access to the applicable Cloud Service; and (ii) Customer must promptly discontinue all use of the Software, erase all copies of the Software from Customer's computers, return to LogRhythm or destroy all copies of the Software, Documentation and other LogRhythm Information in Customer's possession or control. Sections 1, 2.5, 6, 7.3, 8,9,11, 13 and Sections 3 and 7 of the Cloud Services Addendum shall survive expiry or termination of the Agreement for any reason, together with any accrued payment obligations and any other sections of this Agreement which expressly or by their nature survive expiry or termination.

13.   GENERAL.

13.1   Proprietary Rights. The Products and Documentation, and all worldwide Intellectual Property Rights therein, are the exclusive property of LogRhythm and its licensors. All rights in and to the Software, Cloud Services and Documentation not expressly granted to Customer in this Agreement are reserved by LogRhythm and its licensors. Customer shall not remove, alter, or obscure any proprietary notices (including copyright notices) of LogRhythm or its licensors on or within the Software, Cloud Services or Documentation.

13.2   Compliance with Laws. Customer shall not export, reexport, or transfer, directly or indirectly, any information, process, product, technology, funds or services to countries or territories specified as prohibited destinations under U.S. trade controls laws, including Cuba, Iran, North Korea, Sudan, Syria, and the Crimea region or as otherwise prohibited by U.S. trade control laws, including the economic sanctions and export control laws and regulations administered by the U.S. Department of Commerce, U.S. Department of the Treasury, and U.S. Department of State.

13.3   Assignment. Neither party shall have the right to assign, novate or transfer, by operation of law or otherwise, this Agreement or any of its rights under the Agreement without the other party's prior written consent, which consent shall not be unreasonably withheld or delayed; except that LogRhythm shall have the right to assign this Agreement, without consent, to any successor to all or substantially all its business or assets to which this Agreement relates, whether by merger, sale of assets, sale of stock, reorganization or otherwise. Any attempted assignment, novation or transfer in violation of the foregoing will be null and void. This Agreement is binding upon and inures to the benefit of the parties, and to their permitted successors and assigns.

13.4   Force Majeure. Except for any payment obligations, neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder for any cause which is beyond the reasonable control of such party.

13.5   Notices. Any notices or other communications required or permitted to be given or delivered under this Agreement shall be in writing and delivered by one of the following methods: (a) personal delivery; (b) registered or certified mail, in each case, with tracking and/or signature on delivery and postage prepaid; or (c) nationally recognized courier specifying next day delivery and notification of receipt. Operational approvals and consents required under this Agreement may be delivered by e-mail. A notice meeting all requirements of this Section 11.6 will be deemed effectively received: (i) when personally delivered, upon personal delivery to the party to be notified; (ii) when sent by registered or certified mail within the same country, three (3) Business Days after having been sent by registered or certified mail; (iii) when sent by registered or certified mail internationally, two (2) weeks after having been sent by registered or certified mail; (iv) when sent via nationally recognized overnight courier within the same country, one (1) Business Day after deposit with such courier; or (iv) on the date on which such notice is delivered by e-mail transmission. A party shall deliver notices to the address, e-mail address number set forth on the applicable Order or to such other address, e-mail address or facsimile number as a party may designate by ten (10) days' advance written notice to the other parties.

13.6   Governing Law. The laws of the State of New South Wales shall govern this Agreement, without regard to any conflicts of laws principles that would require the application of the laws of a different jurisdiction. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales including, for the avoidance of doubt, the Federal Court of Australia sitting in New South Wales. The U.N. Convention for the International Sale of Goods is expressly excluded from, and does not apply to, this Agreement.

13.7   Arbitration. Subject to Section 13.10:

(a)   Any dispute or difference whatsoever arising out of or in connection with this Agreement, its negotiation, performance, breach, existence or validity, shall be submitted to arbitration in accordance with, and subject to, Resolution Institute Arbitration Rules.

(b)   The number of arbitrators shall be one.

(c)   Unless the parties agree upon an arbitrator within 10 days after receipt of a notice from one party to the other requesting arbitration, either party may request that the Chair of Resolution Institute selects the arbitrator.

(d)   The place of arbitration shall be Sydney, Australia.

(e) The language of the arbitration shall be English.

(f) The parties agree that the award (or awards, if the arbitrator makes separate awards on different issues) of the arbitrator shall be the sole and exclusive remedy between them regarding any claims and counterclaims presented or pled to the arbitrator. The decision of the arbitrator shall be final and binding.

(g) Judgment upon the award rendered may be entered by any court having jurisdiction, or application may be made to such court for a judicial recognition of the award or an order for enforcement thereof.

(h) The costs of the arbitration shall be paid as the arbitrator may determine.

(i) All obligations under this Agreement will continue during the arbitration proceedings, and no payments due or payable by Customer shall be withheld on account of such proceedings.

(j) The parties agree to keep all details of the arbitration proceedings and arbitral award strictly confidential and shall use all reasonable efforts to take such action as may be appropriate to prevent the unauthorized disclosure of the proceedings, any information disclosed in connection therewith, and the award granted.

13.8   Remedies. Except as provided in in this Agreement, the parties' rights and remedies under the Agreement are cumulative. Customer acknowledges that the Software contains valuable trade secrets and proprietary information of LogRhythm, that any actual or threatened breach of Sections 2 or 9 by Customer will constitute immediate, irreparable harm to LogRhythm for which monetary damages would be an inadequate remedy, and that notwithstanding Section 11.8, LogRhythm may seek and obtain injunctive relief in respect of such actual or threatened breach.

13.9   Waivers. No delay or failure of a party to exercise any of its rights, powers or remedies or to require satisfaction of a condition under this Agreement will impair any such right, power, remedy, or condition, nor will any delay or omission be construed to be a waiver of any breach, default or noncompliance under this Agreement. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of the same provision on any other occasion. To be effective, a waiver must be in writing signed by the party granting the waiver and will be effective only to the extent specifically set forth in such writing.

13.10   Third Party Software. Certain Third-Party Software may be provided with the Products or used in the Cloud Services that is subject to the accompanying license(s), if any, of its respective owner(s). To the extent portions of the Products or Cloud Services are subject to open source licenses obligating LogRhythm to make the source code for such portions publicly available (such as the GNU General Public License ("**GPL**") or the GNU Lesser General Public License ("**LGPL**")), LogRhythm will make such source code portions (including LogRhythm modifications, as appropriate) available upon request for a period of up to three (3) years from the date of distribution. Such request can be made in writing to 4780 Pearl East Circle, Boulder, CO 80301: Attn: Legal Department. Customer may obtain a copy of the GPL at http://www.gnu.org/licenses/gpl.html, and a copy of the LGPL at http://www.gnu.org/licenses/lgpl.html. Subject to the terms of any applicable open source license(s), Third Party Software is licensed solely for use as embedded or integrated with the Products or Cloud Service.

13.11   Severability. If a provision of this Agreement is unenforceable, invalid, void, or illegal, then the intent of the parties is that (a) the validity, legality, and enforceability of the remaining provisions of the Agreement are not affected or impacted in any way and the remainder of this Agreement is enforceable between the parties, and (b) the unenforceable, invalid, void, or illegal provision will be severed to the extent that it is unenforceable, invalid, void, or illegal.

13.12   Construction. In this Agreement:

(a) the headings of sections of this Agreement are for convenience and are not to be used in interpreting this Agreement;

(b) the words "including", "such as", "particularly" and similar expressions are not used as, nor intended to be interpreted as, words of limitation; and

(c) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this Agreement or any part of it.

13.13   Counterparts. The parties may execute the Agreement in several counterparts, each of which will constitute an original and all of which, when taken together, will constitute one agreement.

13.14   Entire Agreement. This Agreement (together with all exhibits and attachments and all Orders and Statements of Work made hereunder) constitutes the final agreement between the parties and is the complete and exclusive expression of the parties' agreement to the matters contained in the Agreement. The Agreement supersedes and merges all prior and contemporaneous understandings, agreements or representations by or among the parties, written or oral, that may have related in any way to the subject matter hereof. This Agreement may be amended only by a written instrument signed by each of the parties. Customer may issue a purchase order to LogRhythm to confirm any Order, but no terms of any purchase order or similar document submitted by Customer (whether additional or contradictory) shall apply to this Agreement and all such terms are hereby rejected. Unless otherwise specified in a future Order this Agreement governs all future transactions for LogRhythm products and services between the parties.

14.   DEFINITIONS.

14.1   "**Affiliate**" means, with respect to a party, any other entity that directly or indirectly controls, is controlled by or is under common control with such entity, where "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such entity through the ownership of fifty percent (50%) or more of the outstanding voting securities (but only for as long as such entity meets these requirements).

14.2   "**Appliance**" means a Product comprised of Hardware and Software installed on that Hardware.

14.3   "**Authorized Reseller**" means the reseller, distributor or partner authorized and approved by LogRhythm to resell the Products, Cloud Services and related services.

14.4   "**Cloud Service**" means a software as a service or other cloud-based offering that LogRhythm provides using the Software.

14.5   "**Cloud Service Subscription**" means a right to access and use a LogRhythm Cloud Service for the duration specified in the applicable Order.

14.6   "**Customer Data**" means Customer Information (defined in Section 12.4) that is (a) disclosed or provided to LogRhythm by or on behalf of Customer or (b) collected or received from Customer by LogRhythm.

14.7   "**Delivery Date**" means the date of delivery of the applicable Hardware, Appliance or, if Software only, the Software.

14.8   "**Documentation**" means the user manuals provided to Customer with the Software Hardware, Appliance or Cloud Service upon delivery or activation, in either electronic, online help files or hard copy format. All Documentation is provided in English.

14.9   "**Error**" means a reproducible defect in a Product, which causes the Product not to operate substantially in accordance with the Documentation.

14.10   "**Hardware**" means the hardware supplied by LogRhythm as set forth on an Order. The terms and conditions set forth in the Hardware Addendum located on the LogRhythm website at https://gallery.logrhythm.com/terms-and-conditions/addendums/logrhythm-hardware-procurement-addendum-8-2019.pdf and incorporated herein or attached to this Agreement shall apply to such Hardware purchases.

14.11   "**Intellectual Property Rights**" means all intellectual and industrial property rights throughout the world, including but not limited to copyright and related rights, trademarks, service marks, rights to preserve the confidentiality of information (including know-how and trade secrets), trade names, domain names, rights in get-up, goodwill and right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, patents, patent applications, moral rights, contract rights and other intellectual proprietary rights, including all applications for (and right to apply for and be granted) renewals or extensions of, and right to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, or in any party of the world.

14.12   "**Licence Subscription**" means a term licence to Software, the duration of which is specified in the applicable Order.

14.13   "**Order**" means ordering documentation between Customer and LogRhythm or an Authorized Reseller and may include a signed quotation from LogRhythm or a Customer purchase order.

14.14   "**Perpetual**" means the license right to use the Software indefinitely.

14.15   "**Products**" means the Software, Hardware, and Appliances.

14.16   "**Software**" means the LogRhythm software programs identified in an Order, including Third Party Software, and any Upgrade, Update or Maintenance Release (as defined in the Support Services Addendum) that LogRhythm may provide to Customer pursuant to the Support Services.

14.17   "**Subscription**" means the license right to use the Software for the term specified in an Order.

14.18   "**Support Services**" means LogRhythm's technical support and Software maintenance services.

14.19   **Third Party Software**" means any software that is provided with the Software but that is not owned by LogRhythm.

14.20   "**User**" means individuals or a unique entry in Customer's directory of record for customers employees, which includes but is not limited to employees, contractors or agents of Customer actively utilizing Customer's IT infrastructure and any end customers monitored by Customer. End customers can include unique active directory entries of Customer's customers for example, a payment, billing, or authentication system used by the Customer to conduct business with the end customers.

15.   SOFTWARE LICENCE GRANT AND OTHER RIGHTS.

15.1   Software License Grant. Subject to the terms and conditions of this Agreement and payment by Customer of all license fees due for the Software, LogRhythm grants to Customer either a Perpetual or Subscription license, during the Term (set forth in the Order), a non-exclusive, non-transferable (except as set forth in Section 15.5) license to: to use the Software solely for Customer's internal business purposes in accordance with the Documentation and any limitations set forth in this Agreement or the Order. The Duration of the license is as specified on the Order. If Customer has purchased an Appliance, the Software license may only be used on the Appliance with which the Software is delivered. If Customer elects to deploy the Software for use in another host environment or another virtual environment (including any copy of the Software for backup and disaster recovery purposes), each instance requires its own license for which Customer will need a license key which shall be provided by LogRhythm upon request of Customer. The Software shall be deemed delivered when a license key which unlocks the Software is provided to Customer.

15.2   License Metrics. If Customer's Product is licensed by (a) messages per second ("MPS") as specified in the Order, the MPS use limitation of the license refers to a rolling 24-hour average of messages per second received by the Software whereby "message" means each individual log or system event received by the Product including without limitation flat file, SNMP, SMTP, netflow (j flow and S flow), syslog or other event or system record. Customer may exceed the MPS limitation by up to 10% without additional charge, and Customer will not be charged for a one-time anomalous event that causes a spike in MPS usage above the specified MPS limitation; (b) network bandwidth (specified in the Order as a bandwidth or bandwidth per second such as 1GB or 1GB/second), the network bandwidth use limitation refers to a rolling 15-minute average of network bandwidth usage per second; (c) "Identity", an Identity is a unique person or service account. A person-based Identity may have multiple identifiers such as user accounts, email addresses, and phone numbers. A service account is a user account that is created explicitly to provide an authentication context for a computer or set of computers and/or services running on that computer. An Identity license is required for each unique person-based Identity and each unique service account; or (d) User, as defined above, is based on Customers identity directory of record for its User count at the inception of the Order.

15.3   No Rights for Affiliate Usage. Customer is the only entity that may use the Software under this Agreement and the rights granted to Customer under this Agreement do not extend to any Customer Affiliate. Customer shall not permit any Customer Affiliates to use the Software on behalf of Customer or on behalf of such Affiliates. Any Customer Affiliate that desires to license the Software may enter into a separate Order with LogRhythm utilizing these Terms which shall be a separate agreement between LogRhythm and such Customer Affiliate.

15.4   System Files. All SQL Server database files and transaction logs (collectively "System Files"), used by an Appliance must reside on either the Appliance or an external storage device ("Supported Equipment"). Notwithstanding the foregoing, System Files do not include LogRhythm archive files.

15.5   Restrictions on Use. as expressly permitted by this Agreement, Customer will not: (a) modify, adapt, alter, translate, or create derivative works from the Software, Cloud Services or Documentation; (b) rent, lease, loan, sublicence, distribute, sell or otherwise transfer the Software, Cloud Services or Documentation to any third party; (c) use the Software or Cloud Services in any service bureau or time sharing or hosting arrangement; (d) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code for the Software or Cloud Services (except, as provided by statute which cannot be excluded by the agreement of the parties, for the purpose of integration with other software used by Customer, provided that Customer first gives LogRhythm the opportunity to provide the information needed to achieve the integration or to carry out such work for a reasonable commercial fee); (e) otherwise use or copy the Software, Cloud Services or Documentation except as expressly permitted this Agreement; or (f) disclose to any third party the results of any benchmark tests or other evaluation of the Software or Cloud Services. If Customer will utilize the Cloud Services for any purpose other than the detection, mitigation, containment and eradication of cyberthreats, Customer is responsible for notice to, and obtain consents from, individuals as required by applicable law.

16.   CLOUD SERVICES. If Customer orders and pays for Cloud Services, the terms and conditions set forth in the Cloud Services Addendum located on the LogRhythm website at https://gallery.logrhythm.com/terms-and-conditions/addendums/logrhythm-cloud-services-addendum-8-2019.pdf and incorporated herein or attached to this Agreement shall apply to such Cloud Services in addition to the terms of this Agreement.

17.   HARDWARE. If Customer orders and pays for Hardware from LogRhythm, the terms and conditions set forth in the Hardware Addendum located on the LogRhythm website at https://gallery.logrhythm.com/terms-and-conditions/addendums/logrhythm-hardware-procurement-addendum-8-2019.pdf and incorporated herein or attached to this Agreement shall apply to such Hardware purchases.

18.   EVALUATION PRODUCTS. Notwithstanding Section 2 of this Agreement, if Customer is provided with evaluation Products, then the term will be limited to the free trial period specified in the Order Document or as otherwise determined by LogRhythm (the "Evaluation Period"). During the Evaluation Period, LogRhythm grants to Customer a limited, non-exclusive, non-transferable, non-sublicensable licence to install and use the evaluation Products only or access and use the evaluation Cloud Services: (a) for internal use in a non-production capacity; and (c) to test and evaluate the Products to assist Customer in its purchase decision. Any evaluation Hardware (if applicable) provided to Customer with the evaluation

Software shall remain the property of LogRhythm. Upon the expiration of the Evaluation Period, the evaluation licence or right of use granted to Customer will terminate and, within five (5) days after such expiration or termination, Customer will, at its own expense, uninstall all copies of the evaluation Software, and return the evaluation Hardware (if applicable), to LogRhythm. **The evaluation of the Products are provided "AS IS" and no warranty obligations of LogRhythm will apply and Support Services obligations do not apply to any evaluation Services.**

19.   SUPPORT SERVICES; DEPLOYMENT; TRAINING.

19.1   Support Services. Support Services shall be subject to terms and conditions set forth in the Support Services Addendum located on the LogRhythm website at https://gallery.logrhythm.com/terms-and-conditions/addendums/logrhythm-support-services-addendum-8-2109.pdf and incorporated herein or attached to this Agreement. The initial Support Services term for perpetual Software licences is one (1) year beginning on the Delivery Date unless otherwise specified in the Order ("Initial Term). Thereafter shall renew automatically for additional one (1) year terms unless Customer elects to terminate Support Services by providing LogRhythm with written notice of its intent not to renew Support Services at least thirty (30) days prior to the end of the applicable annual Support Services term. Support Services for Subscriptions are included in the Subscription Fee and Support Services are provided during the Subscription Term. Upon termination of such Support Services Customer may continue to use the Software in accordance with this Agreement without the benefits provided under the Support Services Addendum. Support Services Fees for the Initial Term are set forth in the applicable Order and are invoiced on the Delivery Date. Under no circumstances are the Support Services transferrable or assignable by the Customer to any third party.   LogRhythm may increase Support Services Fees for a Support Services renewal term up to seven percent over the prior year's Support Services Fees.

19.2   Professional Services. Subject to payment of the professional service fees ("Professional Services Fees") set forth in an Order, LogRhythm shall provide to Customer the professional services specified in the and in accordance with Professional Services Addendum located on the LogRhythm website at https://gallery.logrhythm.com/terms-and-conditions/addendums/logrhythm-professional-services-addendum-8-2019.pdf and incorporated herein or attached to this Agreement ("Professional Services of the Delivery Date of the Order for such Professional Services. Unless otherwise expressly stated in an Order, Customer shall pay all LogRhythm's reasonable travel, meals and lodging costs and expenses incurred by LogRhythm in connection with the provision of all services by LogRhythm at Customer's facilities under this Agreement. Upon Customer's request, LogRhythm shall submit written evidence of each such expenditure to Customer prior to receiving reimbursement of such costs and expenses.

19.3   Training. Subject to payment of any training fees ("Training Fees"), Customer may obtain training services from LogRhythm in accordance with the applicable Order ("Training Services"). Customer must use any contracted Training Services within fifteen months of the date of purchase of such Training Services.

19.4   Subcontractors and Partners. LogRhythm may utilize, in whole or in part, subcontractors or distribution partners to provide maintenance, deployment or training services to Customer.

20.   FEES, AUDIT AND RECORD KEEPING

20.1   Payment. Customer will pay to LogRhythm or its Authorized Reseller the applicable fees ("Fees") as set forth in and in accordance with the applicable Order. Customers right to use the Software and received the Support Services are contingent upon the payment of all Fees as and when due to the Reseller under the applicable Order.

20.2   Authorized Reseller Fees. Fees payable to Authorised Reseller shall be paid as set forth in the applicable Order. Customer shall pay all fees due to LogRhythm within thirty (30) days from the date of the invoice unless otherwise specified in writing by LogRhythm. Customer shall be responsible for all applicable sales, VAT, use, and other taxes (excluding taxes based on LogRhythm's income) and all applicable export and import fees, customs duties and similar charges. All Fees are non-refundable unless otherwise expressly stated herein. If Customer purchases product or services through an Authorized Reseller, price and payment terms are between Customer and the Authorized Reseller.

20.3   Late Payment. For payments due directly to LogRhythm, rather than its Authorized Reseller, LogRhythm may charge interest on all late payments at the rate of 4% above the base lending rate for the time being of Barclays Bank plc. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the due amount, whether before or after judgment. Notwithstanding the foregoing, LogRhythm reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998 or any equivalent applicable legislation in any applicable jurisdiction.

20.4   Reports; Audit Rights. LogRhythm may periodically run a report to determine the number of MPS Customer is utilizing with the Products. LogRhythm may audit or to appoint an independent audit firm selected by LogRhythm to audit Customer's records relating to Customer's use of the Products pursuant to this Agreement to verify that Customer has complied with the terms of this Agreement and to verify Customers compliance with the license for the Products licensed. Any audit shall be conducted no more than once in any period of 12 consecutive months during Customer's normal business hours and upon at least 15 days' prior written notice. The audit shall be conducted at LogRhythm's expense unless the audit reveals that Customer has underpaid the amounts owed to LogRhythm by 5% or more, in which case Customer shall

reimburse LogRhythm for all reasonable costs and expenses incurred by LogRhythm in connection with such audit. Customer shall promptly pay to LogRhythm any amounts owed plus interest as provided in Section 7.3.

21. **WARRANTY; DISCLAIMER.**

21.1 **Product Warranty.** For a period of ninety (90) days after the Delivery Date (the "Warranty Period"), LogRhythm warrants that the Products, when used in accordance with the instructions in the applicable Documentation, will operate as described in the Documentation in all material respects. LogRhythm does not warrant that Customer's use of the Products will be error-free or uninterrupted. LogRhythm will, at its own expense and as its sole obligation and Customer's exclusive remedy for any breach of this warranty, correct any reproducible Error in the Products or replace any defective Product provided that such Error is reported to LogRhythm by Customer in writing during the Warranty Period and that Customer provides all information that may be necessary to assist LogRhythm in resolving the error or defect, or sufficient information to enable LogRhythm to recreate the Error or defect. If LogRhythm determines that it is unable to correct the Error or replace the Product, Customer may terminate this Agreement and LogRhythm or the Authorized Reseller will refund to Customer Licence and Support Services fees actually paid for the defective Product, in which case Customer's right to use the Product will terminate.

21.2 **Disclaimers**. The express warranties in Section 8.1 are in lieu of all other warranties, conditions and terms which might have effect between the parties or be implied or incorporated into this Agreement or any collateral contract, express, implied, statutory or otherwise, regarding the Products, and Cloud Services and Professional Services and any other ancillary services or activities in relation to this Agreement, including (but without limitation) any implied warranties, conditions or other terms as to satisfactory quality, fitness for a purpose or particular purpose, use of reasonable skill and care, non-infringement and any warranties or conditions arising from course of dealing or course of performance which are hereby disclaimed to the fullest extent permitted by law. Except for the express warranties stated in Section 8.1, the Software and Hardware are provided "as is" with all faults.

22. **INFRINGEMENT CLAIMS**.

22.1 **Indemnity.** LogRhythm will defend Customer at LogRhythm's expense against any claim, demand, suit, or proceeding brought against Customer by a third party alleging that the Software when used in accordance with the terms of this Agreement infringes or misappropriates such third party's Intellectual Property Rights (each, a "Claim"), and LogRhythm will indemnify Customer from any damages , attorney's fees and costs finally awarded against Customer as a result of, or for amounts paid by Customer under a settlement approved by LogRhythm in writing of a Claim provided that Customer (a) notifies LogRhythm promptly in writing of the Claim, (b) does not make any admission of liability, agreement or compromise in relation to any infringement claim without the prior written consent of LogRhythm (such consent not to be unreasonably conditioned, delayed or withheld), (c) gives LogRhythm sole control of the defence thereof and any related settlement negotiations, (d) reasonably cooperates and, at LogRhythm's request and expense, assisting in such defence; and (e) wherever and whenever possible takes all reasonable steps to mitigate its losses that are the subject of the Claim.

22.2 **Injunction.** If the a Product becomes, or in LogRhythm's opinion is likely to become, the subject of an infringement claim, LogRhythm may, at LogRhythm's discretion and at no cost to Customer (a) procure for Customer the right to continue using the Product, (b) replace or modify the Product so that it becomes non-infringing and remains functionally equivalent; or (c) if, in LogRhythm's reasonable opinion, neither option (a) or (b) is commercially viable, notify Customer in writing that this Agreement will terminate on the date specified in the notice of termination issued by LogRhythm to Customer. If the Agreement is terminated under this Section 9.2: (i) for Products, LogRhythm will refund Customer the fees paid for such Product computed according to a thirty-six (36) month straight-line amortization schedule beginning on the Delivery Date.

22.3 **Exclusions.** Notwithstanding the foregoing, LogRhythm will have no obligation under this Section 9 or otherwise with respect to any Claim based upon (a) any use of the Product not in accordance with this Agreement, (b) any use of the; Product in combination with other products, hardware, equipment, or software not provided by LogRhythm if the Product or use thereof would not infringe without such combination , (c) use of any release of the Software other than the most current release made available to Customer, provided that LogRhythm notified Customer that any Update to the Software could avoid infringement and further provided that LogRhythm will provide indemnity for use up to the date of such notification; or (d) any modification of the Software by any person other than LogRhythm or its authorized agents or subcontractors. This section 8 constitutes Customer's exclusive remedy and LogRhythm's only liability in respect of Claims.

23. **LIMITATION OF LIABILITY**. Subject to section 9 and section 10, in no event will either party be liable for the following loss or damage arising from or relating to this Agreement, howsoever caused, whether direct or indirect and even if such party has been advised of the possibility of such damages: (a) for any loss or corruption of data; (b) loss of profit; (c) loss of revenue; (d) loss of business opportunity; (e) loss of anticipated savings or damage to goodwill; or (f) any consequential, indirect, exemplary, special, or incidental damages. This section 7 shall not prevent claims for loss of or damage to Customer's tangible property that falls within the terms of section 9 or any other claims for direct financial loss that are not excluded by this section 9 or in the LogRhythm's case, claims for loss or damage resulting from Customer's breach of any of LogRhythm's Intellectual Property Rights, for which the Customers liability shall be unlimited.

24.   **TOTAL LIABILITY.** Subject to section 9 and section 10, LogRhythm's total cumulative liability in connection with this Agreement, the Products, Cloud Services and any related services, whether in contract or tort (including negligence) or otherwise, will not exceed a sum equal to 1.25 times the amount of fees (including Support Services Fees (if any)) paid or payable by Customer to Authorized Reseller during the twelve (12) month period preceding the events giving rise to such liability or five thousand British pounds (GBP£5,000), whichever is the higher.

25.   **LIABILITY NOT EXCLUDED.** Neither party excludes its liability in respect of: death or personal injury caused by the negligence of that party, its servants or agents; or liability for fraud or fraudulent misrepresentation; or breach of statutory warranties of title and quiet possession; or such other liability which cannot be excluded or limited by law.

26.   **CONFIDENTIALITY.**

26.1   **Confidential Information.** For purposes of this Section 13 ("Information") means information that is disclosed by a party ("Discloser") to the other party ("Recipient"), or which Recipient has access to in connection with this Agreement, and that should reasonably have been understood by Recipient to be proprietary and confidential to Discloser or to a third party, because of legends or other markings, the circumstances of disclosure or the nature of the information itself. Information may be disclosed in written or other tangible form (including on magnetic media) or by oral, visual or other means. Information includes, without limitation, information of or relating to the Discloser's present or future products, know-how, formulas, designs, processes, ideas, inventions and other technical, business and financial plans, processing information, pricing information, specifications, research and development information, customer lists, the identity of any customers or suppliers, forecasts and any other information relating to any work in process, future development, marketing plans, strategies, financial matters, personnel matters, investors or business operations of the Discloser, as well as the terms of this Agreement.

26.2   **Protection of Information.** Recipient will not use any Information of Discloser for any purpose not expressly permitted by the Agreement and will disclose the Information of Discloser only to the employees or contractors of Recipient who have a need to know such Information for purposes of the Agreement and who are under a duty of confidentiality no less restrictive than Recipient's duty hereunder. Recipient will protect Discloser's Information from unauthorized use, access, or disclosure in the same manner as Recipient protects its own confidential or proprietary information of a similar nature and with no less than reasonable care.

26.3   **Exceptions.** Recipient's obligations under Section 13.2 with respect to any Information of Discloser will terminate if such information: (a) was already known to Recipient at the time of disclosure by Discloser; (b) was disclosed to Recipient by a third party who had the right to make such disclosure without any confidentiality restrictions; (c) is, or through no fault of Recipient has become, generally available to the public; or (d) was independently developed by Recipient without access to, or use of, Discloser's Information. In addition, Recipient will be allowed to disclose Information of Discloser to the extent that such disclosure is: (i) approved in writing by Discloser, (ii) necessary for Recipient to enforce its rights under the Agreement in connection with a legal proceeding; or (iii) required by law or by the order of a court of similar judicial or administrative body, provided that Recipient notifies Discloser of such required disclosure promptly and in writing and cooperates with Discloser, at Discloser's request and expense, in any lawful action to contest or limit the scope of such required disclosure.

26.4   **Return of Information.** Except as otherwise expressly provided in this Agreement, Recipient will return to Discloser or destroy all Information of Discloser in Recipient's possession or control and permanently erase all electronic copies of such Information promptly upon the written request of Discloser. Recipient will certify in writing signed by an officer of Recipient that it has fully complied with its obligations under this Section 13.4.

27.   **TERM AND TERMINATION**

27.1   **Term**. The term of the Agreement continues until terminated as provided in Section 14.2 (the "Term").

27.2   **Termination**. Either party may terminate the Agreement if the other party breaches any material provision of the Agreement and (if such breach is remediable) does not cure such breach within thirty (30) days after receiving written notice thereof. Subscription Term Agreements expire at the end of the Subscription Term.

27.3   **Refund or Payment upon Termination**. If this Agreement is terminated by Customer in accordance with Section 14.2 (Termination), LogRhythm will refund Customer any prepaid, unused fees for services. If this Agreement is terminated by LogRhythm in accordance with this Section 14.3, Customer will pay any unpaid fees covering the remainder of the applicable term of all Orders. In no event will termination relieve Customer of its obligation to pay any fees payable to LogRhythm prior to the effective date of termination.

27.4   **Effects of Termination**. Upon termination of this Agreement: (i) all licence and use rights granted in this Agreement will immediately cease to exist; and (ii) and Customer must promptly discontinue all use of the Software, erase all copies of the Software from Customer's computers, return to LogRhythm or destroy all copies of the Software, Documentation and other LogRhythm Information in Customer's possession or control. Sections 1, 2.5, 7.4, 9.3, 10, 101, 13, 15 and Sections 3 and 7 of the Cloud Services Addendum together with any accrued payment obligations, will survive expiration or termination of the Agreement for any reason, together with any accrued payment obligations and any other sections of this Agreement which expressly or by their nature survive expiry or termination.

28. GENERAL

28.1   Proprietary Rights.   The Software, Cloud Services and Documentation, and all worldwide Intellectual Property Rights therein, are the exclusive property of LogRhythm and its licensors.   All rights in and to the Software, Cloud Services and Documentation not expressly granted to Customer in this Agreement are reserved by LogRhythm and its licensors. Customer will not remove, alter, or obscure any proprietary notices (including copyright notices) of LogRhythm or its licensors on the Software or the Documentation.

28.2   Compliance with Laws.   Each party shall comply with all laws, rules, and regulations, applicable to that party in connection with this Agreement, including all applicable export and import control laws and regulations in its use of the Products and Cloud Services and, in particular, neither party shall export or re-export Products without all required government licenses and each party agrees to comply with the export laws, restrictions, national security controls and regulations of the all applicable foreign agencies or authorities. Customer shall not export, reexport, or transfer, directly or indirectly, any information, process, product, technology, funds or services to countries or territories specified as prohibited destinations under U.S. trade controls laws, including Cuba, Iran, North Korea, Sudan, Syria, and the Crimea region or as otherwise prohibited by U.S. trade control laws, including the economic sanctions and export control laws and regulations administered by the U.S. Department of Commerce, U.S. Department of the Treasury, and U.S. Department of State.

28.3   Anti-Bribery.   LogRhythm shall: (a) comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("Relevant Requirements"); (b) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK; (c) have and shall maintain in place throughout the term of this agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010 or any other applicable legislation, to ensure compliance with the Relevant Requirements and Section 13.3(b), and will enforce them where appropriate; (d) promptly report to Customer any request or demand for any undue financial or other advantage of any kind received by LogRhythm in connection with the performance of this Agreement; (e) immediately notify Customer (in writing) if a foreign public official becomes an officer or employee of the LogRhythm and/or acquires a direct or indirect interest in the LogRhythm (and LogRhythm warrants that it has no foreign public officials as officers or employees and/or direct or indirect owners at the date of this Agreement); (f) on written request, certify to Customer in writing signed by an officer of LogRhythm, compliance with this Section 13.3 by LogRhythm and all persons associated with it and all other persons for whom the LogRhythm is responsible under Section 12.3(c). LogRhythm shall provide such supporting evidence of compliance as Customer may reasonably request. LogRhythm shall ensure that any person associated with LogRhythm who is performing services or providing goods in connection with this Agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on LogRhythm in this Section 13.3 ("Relevant Terms").   LogRhythm shall in all circumstances be responsible for the observance and performance by such persons of the Relevant Terms and shall in all circumstances be directly liable to the Company for any breach by such persons of any of the Relevant Terms howsoever. Breach of this Section 13.3 shall be deemed an irredeemable material breach.   For the purpose of this Section 13.3, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively, or if applicable, any equivalent provisions of any other applicable legislation in another jurisdiction. For the purposes of this Section 15.3 a person associated with LogRhythm includes but is not limited to any subcontractor of LogRhythm.

28.4   Anti-Slavery: LogRhythm shall take reasonable steps to ensure that slavery and human trafficking (as such phrase is defined in section 54(12), Modern Slavery Act 2015, or any equivalent provision in equivalent legislation in another applicable jurisdiction) is not taking place in any of its supply chains or in any part of its own business. LogRhythm shall, at the Customer's request, provide the Customer with a statement of such steps it has taken, together with such other information as the Customer may reasonably require in order to enable it to prepare a slavery and human trafficking statement in accordance with section 54, Modern Slavery Act 2015, or any equivalent provision in equivalent legislation in another applicable jurisdiction.

28.5   Assignment.   Neither party may assign, novate or transfer, by operation of law or otherwise, this Agreement or any of its rights under the Agreement (including the benefit of the Support Services and the Professional Services and the licence rights granted to the Customer to the Software) to any third party without the other party's prior written consent, provided that such third party assignee or transferee shall agree to be bound by the terms of this Agreement; except that LogRhythm shall have the right to assign this Agreement, without consent, to any successor to all or substantially all its business or assets to which this Agreement relates, whether by merger, sale of assets, sale of stock, reorganization or otherwise.   Any attempted assignment novation or transfer in breach of the foregoing will be null and void.

28.6   Force Majeure. Except for any payment obligations, neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder for any cause which is beyond the reasonable control of such party. In such circumstances, the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for 3 months, the party not affected may terminate this agreement by giving 30 days written notice to the affected party.

28.7   Notices. All notices, consents, and approvals under this Agreement must be delivered in writing by courier, by electronic mail, facsimile (fax), or by certified mail, (postage prepaid and return receipt requested) to the other party at the address set forth on the Order and will be effective upon receipt or when delivery is refused. Either party may change its address by giving notice in writing of the new address to the other party.

28.8   Governing Law and Jurisdiction. This Agreement, all Statements of Work and any dispute or claim arising out of or in connection with the same or its subject matters or formation (including non-contractual disputes or claims) will be governed by and interpreted in accordance with English Law, without reference to its choice of laws rules. Any proceedings relating to any claim or matter arising out of or in connection with this Agreement or any Statement of Work instituted against LogRhythm by Customer shall be brought in the courts of the State of Colorado and any such proceedings brought against Customer by LogRhythm shall be brought in the courts of England and Wales. Each party agrees that the specified courts shall have exclusive jurisdiction over such disputes save that any counterclaim may be brought in any proceedings already commenced.

28.9   Remedies. Except as provided in Sections 6 and7, the parties' rights and remedies under the Agreement are cumulative. Customer acknowledges that the Software contains valuable trade secrets and proprietary information of LogRhythm, that any actual or threatened breach of Section 2 by Customer will constitute immediate, irreparable harm to LogRhythm for which monetary damages would be an inadequate remedy, and that injunctive relief is an appropriate remedy for such breach. If any legal action is brought by a party to enforce the Agreement, the prevailing party will be entitled to receive its reasonable legal fees, court costs, and other collection expenses, in addition to any other relief it may receive.

28.10   Waivers. All waivers must be in writing. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

28.11   Third Party Software. Certain Third-Party Software may be provided with the Products or used in the Cloud Services that is subject to the accompanying licence(s), if any, of its respective owner(s). To the extent portions of the Products or Cloud Services subject to open source licences obligating LogRhythm to make the source code for such portions publicly available (such as the GNU General Public License ("GPL") or the GNU Library General Public License ("LGPL")), LogRhythm will make such source code portions (including LogRhythm modifications, as appropriate) available upon request for a period of up to three (3) years from the date of distribution. Such request can be made in writing to 4780 Pearl East Circle, Boulder, CO 80301: Attn: Legal Department. Customer may obtain a copy of the GPL at http://www.gnu.org/licenses/gpl.html, and a copy of the LGPL at http://www.gnu.org/licenses/lgpl.html. Subject to the terms of any applicable open source licence(s), Third Party Software is licensed solely for use as embedded or integrated with the Products or Could Services.

28.12   Severability. If any provision of this Agreement is unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law or shall, to the extent required, be deemed not to form part of this Agreement, in either case, the remaining provisions of this Agreement will continue in full force and effect. Without limiting the generality of the foregoing, Section 5 will remain in effect notwithstanding the unenforceability of any provision in Section 7.

28.13   Construction. The headings of sections of this Agreement are for convenience and are not to be used in interpreting this Agreement. As used in this Agreement, the word "including" means "including but not limited to."

28.14   Third Parties. The parties confirm that this Agreement is not intended to confer any rights on third parties and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

28.15   Entire Agreement. This Agreement (including the addendums and attachments and all Orders and Statements of Work made hereunder) constitutes the entire agreement between LogRhythm and the Customer regarding the subject hereof and supersedes all prior or contemporaneous agreements, understandings, and communication, whether written or oral. Each party acknowledges that, in entering into this Agreement, it has not relied on any statement, representation (whether negligent or innocent), assurance or warranty, whether written or oral, of any person (whether a party to this Agreement or not) other than as expressly set out in this Agreement and that it shall have no remedy in respect of such representations. This section shall not apply to any statement, representation, assurance or warranty made fraudulently. Each party agrees and undertakes to the other party that the only rights and remedies available to it arising out of or in connection with this Agreement or its subject matter shall be for breach of contract. Unless otherwise specified in a future Order, this Agreement governs all future transactions for LogRhythm products between the parties.

28.16   Amendment This Agreement may be amended only by a written document signed by both parties. The terms of any purchase order or similar document submitted by Customer to LogRhythm will have no effect.

29.   DEFINITIONS.

29.1   "**Affiliate**" means, with respect to a party, any other entity that directly or indirectly controls, is controlled by or is under common control with such entity, where "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such entity through the ownership of fifty percent (50%) or more of the outstanding voting securities (but only for as long as such entity meets these requirements).

29.2   "**Appliance**" means a Product comprised of the Hardware and the Software installed on that Hardware.

29.3   "**Authorized Reseller**" means the reseller, distributor or partner authorized and approved by LogRhythm to resell the Products, Cloud Services and related services.

29.4   "**Cloud Service**" means a software as a service or other cloud-based offering that LogRhythm provides using the Software.

29.5   "**Cloud Service Subscription**" means a right to access and use a LogRhythm Cloud Service for the duration specified in the applicable Order.

29.6   "**Customer Data**" means Customer Information (as defined in Section 11) that is (a) disclosed or provided to LogRhythm by or on behalf of Customer or (b) collected or received from Customer by LogRhythm.

29.7   "**Delivery Date**" means the date of delivery of the applicable Hardware, Appliance or, if Software only, the Software.

29.8   "**Documentation**" means the user manuals provided to Customer with the Software Hardware, Appliance or Cloud Service upon delivery or activation, in either electronic, online help files or hard copy format. All Documentation is provided in English.

29.9   "**Error**" means a reproducible defect in a Product, which causes the Product not to operate substantially in accordance with the Documentation.

29.10   "**Intellectual Property Rights**" means all intellectual and industrial property rights throughout the world, including but not limited to copyright and related rights, trademarks, service marks, rights to preserve the confidentiality of information (including know-how and trade secrets), trade names, domain names, rights in get-up, goodwill and right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, patents, patent applications, moral rights, contract rights and other intellectual proprietary rights, including all applications for (and right to apply for and be granted) renewals or extensions of, and right to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, or in any party of the world.

29.11   "**Hardware**" means the hardware supplied by LogRhythm as set forth on an Order. The terms and conditions set forth in the Hardware Addendum located on the LogRhythm website at https://gallery.logrhythm.com/terms-and-conditions/addendums/logrhythm-hardware-procurement-addendum-8-2019.pdf   and   incorporated   herein   or attached to this Agreement shall apply to such Hardware purchases.

29.12   "**Order**" ordering documentation between Customer and LogRhythm or an Authorized Reseller and may include a signed quotation from LogRhythm or a Customer purchase order accepted by LogRhythm or the Authorized Reseller.

29.13   "**Perpetual**" means the license right to use the Software indefinitely.

29.14   "**Product**" means the Software, Hardware, and/or Appliances.

29.15   "**Software**" means the LogRhythm software programs identified in an Order, including Third Party Software, and any Upgrade, Update or Maintenance Release (as defined in Support Services Addendum) that LogRhythm may provide to Customer pursuant to the Support Services.

29.16   "**License Subscription**" means a term license to Software, the duration of which shall be as specified in the applicable Order.

29.17   "**Subscription**" means the license right to use the Software for the term specified in an Order.

29.18   "**Support Services**" means LogRhythm's technical support and Software maintenance services.

29.19   "**Third Party Software**" means any software that is provided with the Software but that is not owned by LogRhythm.

29.20   "**User**" means individuals or a unique entry in Customer's directory of record for customers employees, which includes but is not limited to employees, contractors or agents of Customer actively utilizing Customer's IT infrastructure and any end customers monitored by Customer. End customers can include unique active directory entries of Customer's customers for example, a payment, billing, or authentication system used by the Customer to conduct business with the end customers.

30. **SOFTWARE LICENCE GRANT AND OTHER RIGHTS.**

30.1 **Software Licence Grant**. Subject to the terms and conditions of this Agreement and payment by Customer of all license fees due for the Software, LogRhythm grants to Customer either a Perpetual or Subscription license, during the Term (set forth in the Order), a non-exclusive, non-transferable (except as set forth in Section 13.5) license to use the Software solely for Customer's internal business purposes in accordance with the Documentation and any limitations set forth in this Agreement or the Order. The Duration of the license is as specified on the Order. If Customer has purchased an Appliance, the Software license may only be used on the Appliance with which the Software is delivered. If Customer elects to deploy the Software for use in another host environment or another virtual environment (including any copy of the Software for backup and disaster recovery purposes), each instance requires its own license for which Customer will need a license key which shall be provided by LogRhythm upon request of Customer. The Software shall be deemed delivered when a license key which unlocks the Software is provided to Customer.

30.2 **License Metrics**. If Customer's Product is licensed by (a) messages per second ("MPS") as specified in the Order, the MPS use limitation of the license refers to a rolling 24-hour average of messages per second received by the Software whereby "message" means each individual log or system event received by the Product including without limitation flat file, SNMP, SMTP, netflow (j flow and S flow), syslog or other event or system record. Customer may exceed the MPS limitation by up to 10% without additional charge, and Customer will not be charged for a one-time anomalous event that causes a spike in MPS usage above the specified MPS limitation; (b) by network bandwidth (specified in the Order as a bandwidth or bandwidth per second such as 1GB or 1GB/second), the network bandwidth use limitation refers to a rolling 15-minute average of network bandwidth usage per second; (c) "Identity", an Identity is a unique person or service account. A person-based Identity may have multiple identifiers such as user accounts, email addresses, and phone numbers. A service account is a user account that is created explicitly to provide an authentication context for a computer or set of computers and/or services running on that computer. An Identity license is required for each unique person-based Identity and each unique service account; or (d) User, as defined above, is based on Customers identity directory of record for its User count at the inception of the Order.

30.3 **No Rights for Affiliate Usage**. Customer is the only entity that may use the Software under this Agreement and the rights granted to Customer under this Agreement do not extend to any Customer Affiliate. Customer shall not permit any Customer Affiliates to use the Software on behalf of Customer or on behalf of such Affiliates. Any Customer Affiliate that desires to license the Software may enter into a separate Order with LogRhythm utilizing these Terms which shall be a separate agreement between LogRhythm and such Customer Affiliate.

30.4 **System Files**. All SQL Server database files and transaction logs (collectively "System Files"), used by an Appliance must reside on either the Appliance or an external storage device ("Supported Equipment"). Notwithstanding the foregoing, System Files do not include LogRhythm archive files.

30.5 **Restrictions on Use**. Except as expressly permitted by this Agreement, Customer will not: (a) modify, adapt, alter, translate, or create derivative works from the Software, Cloud Services or Documentation; (b) rent, lease, loan, sublicence, distribute, sell or otherwise transfer the Software, Cloud Services or Documentation to any third party; (c) use the Software Cloud Services in any service bureau or time sharing or hosting arrangement; (d) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code for the Software or Cloud Services (except, as provided by statute which cannot be exclude d by the agreement of the parties, for the purpose of integration with other software used by Customer, provided that Customer first gives LogRhythm the opportunity to provide the information needed to achieve the integration or to carry out such work for a reasonable commercial fee); (e) otherwise use or copy the Software, Cloud Services or Documentation except as expressly permitted this Agreement; or (f) disclose to any third party the results of any benchmark tests or other evaluation of the Software or Cloud Services. If Customer will utilize the Cloud Services for any purpose other than the detection, mitigation, containment and eradication of cyberthreats, Customer is responsible for notice to, and obtain consents from, individuals as required by applicable law.

30.6 **CLOUD SERVICES**. If Customer orders and pays for Cloud Services, the terms and conditions set forth in the Cloud Services Addendum located on the LogRhythm website at https://gallery.logrhythm.com/terms-and-conditions/addendums/logrhythm-cloud-services-addendum-8-2019.pdf and incorporated herein or attached to this Agreement shall apply to such Cloud Services in addition to the terms of this Agreement.

31. **EVALUATION PRODUCTS.**

31.1 **Evaluation Licence Grant.** Notwithstanding Section 2 of this Agreement, Customer is provided with evaluation Products or Cloud Services ("Evaluation Products'), then the term will be limited to the free trial period specified in the Order Document as otherwise determined by LogRhythm (the "Evaluation Period"). During the Evaluation Period, LogRhythm grants to Customer a limited, non-exclusive, non-transferable, non-sublicensable licence to install and use the Software only or access and use the evaluation Cloud Services: (a) for internal use in a non-production capacity; and (c) to test and evaluate the Software or Cloud Services to assist Customer in its decision. Any evaluation Hardware (if applicable) provided to Customer with the evaluation Software shall remain the property of LogRhythm. Upon the expiration of the Evaluation

Period, the Evaluation Licence or right of use granted to Customer will terminate and, within five (5) days after such expiration or termination, Customer will, at its own expense, uninstall all copies of the evaluation Software, and return the evaluation Hardware (if applicable), to LogRhythm. **The evaluation of the Products is provided "AS IS" and no warranty obligations of LogRhythm will apply and Support Services obligations do not apply to any evaluation Services.**

32. SUPPORT SERVICES; DEPLOYMENT; TRAINING.

32.1 Support Services. Support Services shall be subject to terms and conditions set forth in the Support Services Addendum located on the LogRhythm website at https://gallery.logrhythm.com/terms-and-conditions/addendums/logrhythm-support-services-addendum-8-2109.pdf and incorporated herein or attached to this Agreement. The initial Support Services term for perpetual Software licenses is one (1) year beginning on the Delivery Date unless otherwise specified in the Order ("Initial Term"). Thereafter shall renew automatically for additional one (1) year terms unless Customer elects to terminate Support Services by providing LogRhythm written notice of its intent not to renew Support Services at least thirty (30) days prior to the end of the applicable annual Support Services term. Support Services for Subscriptions are included in the Subscription Fee and Support Services are provided during the Subscription Term. Upon termination of such Support Services for a perpetual license, Customer may continue to use the Software in accordance with this Agreement without the benefits provided under the Support Services Addendum. Support Services Fees for the Initial Term are set forth in the applicable Order and are invoiced on the Effective Date. Under no circumstances are the Support Services transferrable or assignable by the Customer to any third party. The Support Services term for Subscription Licenses is concurrent with the Subscription License term. LogRhythm may increase Support Services Fees for a Support Services renewal term up to seven percent over the prior year's Support Services Fees.

32.2 Professional Services. Subject to payment of the professional service fees ("Professional Services Fees") set forth in an Order, LogRhythm shall provide to Customer the professional services specified in the Order and in accordance the Professional Services Addendum located on the LogRhythm website at https://gallery.logrhythm.com/terms-and-conditions/addendums/logrhythm-professional-services-addendum-8-2019.pdf and incorporated herein or attached to this Agreement ("Professional Services"). Unless otherwise specified in an Order, Customer must use any contracted Professional Services within one year of the effective date of the Order for such Professional Services. Unless otherwise expressly stated in an Order, Customer shall pay all of LogRhythm's reasonable travel, meals and lodging costs and expenses incurred by LogRhythm in connection with the provision of all services by LogRhythm at Customer's facilities under this Agreement. Upon Customer's request, LogRhythm shall submit written evidence of each such expenditure to Customer prior to receiving reimbursement of such costs and expenses.

32.3 Training. Subject to payment of any training fees ("Training Fees"), Customer may obtain training services from LogRhythm in accordance with the applicable Order ("Training Services"). Customer must use any contracted Training Services within fifteen months of the date of purchase of such Training Services.

32.4 Subcontractors and Partners. LogRhythm may utilize, in whole or in part, subcontractors or distribution partners to provide maintenance, deployment or training services to Customer.

33. FEES, AUDIT AND RECORD KEEPING

33.1 Payment. Customer will pay to LogRhythm or its Authorized Reseller the applicable fees ("Fees") as set forth in and in accordance with the applicable Order. Customers right to use the Software and received the Support Services are contingent upon the payment of all Fees as and when due to the Reseller under the applicable Order.

33.2 Authorized Reseller. Fees payable to Authorised Reseller shall be paid as set forth in the applicable Order. Customer shall pay all Fees due to LogRhythm within thirty (30) days from the date of the invoice unless otherwise specified in writing by LogRhythm. Customer shall be responsible for all applicable sales, VAT, use, and other taxes (excluding taxes based on LogRhythm's income) and all applicable export and import fees, customs duties and similar charges. All Fees are non-refundable unless otherwise expressly stated herein. If Customer purchases product or services through an Authorized Reseller, price and payment terms are between Customer and the Authorized Reseller.

33.3 Late Payment. For payments due directly to LogRhythm, rather than its Authorized Reseller, LogRhythm may charge interest on all late payments at the rate of 4% above the base lending rate for the time being of Barclays Bank plc. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the due amount, whether before or after judgment. Notwithstanding the foregoing, LogRhythm reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998 or any equivalent applicable legislation in any applicable jurisdiction.

33.4 Reports; Audit Rights. LogRhythm may periodically run a report to determine the number of MPS Customer is utilizing with the Products. LogRhythm may audit or to appoint an independent audit firm selected by LogRhythm to audit Customer's records relating to Customer's use of the Products pursuant to this Agreement to verify that Customer has complied with the terms of this Agreement and to verify Customers compliance with the license metrics for the Products licensed. Any audit shall be conducted no more than once in any period of 12 consecutive months during Customer's normal business hours and upon at least 15 days' prior written notice. The audit shall be conducted at LogRhythm's expense unless the audit reveals that Customer has underpaid the amounts owed to LogRhythm by 5% or more, in which case Customer

shall reimburse LogRhythm for all reasonable costs and expenses incurred by LogRhythm in connection with such audit. Customer shall promptly pay to LogRhythm any amounts owed plus interest as provided in Section 5.3.

34.   WARRANTY; DISCLAIMER.

34.1   Product Warranty. For a period of ninety (90) days after the Delivery Date (the "Software Warranty Period"), LogRhythm warrants that the Product, when used in accordance with the instructions in the applicable Documentation, will operate as described in the Documentation in all material respects. LogRhythm does not warrant that Customer's use of the Product will be error-free or uninterrupted. LogRhythm will, at its own expense and as its sole obligation and Customer's exclusive remedy for any breach of this warranty, correct any reproducible Error in the Product or replace any defective Product provided that such Error is reported to LogRhythm by Customer in writing during the Product Warranty Period and that Customer provides all information that may be necessary to assist LogRhythm in resolving the error or defect, or sufficient information to enable LogRhythm to recreate the Error or defect. If LogRhythm determines that it is unable to correct the Error or replace the Product, Customer may terminate this Agreement and LogRhythm or the Authorized Reseller will refund to Customer Product and Support Services fees actually paid for the defective Product, in which case this Agreement and Customer's right to use the Product will terminate.

34.2   Disclaimers. The express warranties in section 6.1 are in lieu of all other warranties, conditions and terms which might have effect between the parties or be implied or incorporated into this Agreement or any collateral contract, express, implied, statutory or otherwise, regarding the Products, and Cloud Services and Professional Services and any other ancillary services or activities in relation to this Agreement, including (but without limitation) any implied warranties, conditions or other terms as to satisfactory quality, fitness for a purpose or particular purpose, use of reasonable skill and care, non-infringement and any warranties or conditions arising from course of dealing or course of performance which are hereby disclaimed to the fullest extent permitted by law.

35.   INFRINGEMENT CLAIMS.

35.1   Indemnity. LogRhythm will defend Customer at LogRhythm's expense against any claim, demand, suit, or proceeding brought against Customer by a third party alleging that the Software when used in accordance with the terms of this Agreement infringes or misappropriates such third party's Intellectual Property Rights (each, a "Claim"), and LogRhythm indemnify Customer from any damages, attorney's fees and costs finally awarded against Customer as a result of, or for amounts paid by Customer under in a settlement approved by LogRhythm in writing of an action.   provided that Customer: (a) notifies LogRhythm promptly in writing of the Claim; (b) does not make any admission of liability, agreement or compromise in relation to any infringement claim without the prior written consent of LogRhythm (such consent not to be unreasonably conditioned, delayed or withheld); (c) gives LogRhythm sole control of the defence thereof and any related settlement negotiations; (d) reasonably cooperates and, at LogRhythm's request and expense, assisting in such defence; and (e) wherever and whenever possible takes all reasonable steps to mitigate its losses that are the subject of the Claim.

35.2   Injunction. If the a Product or Cloud Service becomes, or in LogRhythm's opinion is likely to become, the subject of an infringement claim, LogRhythm may, at LogRhythm's discretion and at no cost to Customer: (a) procure for Customer the right to continue using the Products: (b) replace or modify the Products so that it becomes non-infringing and remains functionally equivalent; or (c) if, in LogRhythm's reasonable opinion, neither option (a) or (b) is commercially viable, notify Customer in writing that it requires return of the Software and this Agreement will terminate on the date specified in the notice of termination issued by LogRhythm to Customer. If the Agreement is terminated under this Section 7.2(a) for Products, LogRhythm will refund Customer the Software Fees paid for such Software upon return of the Software, computed according to a thirty-six (36) month straight-line amortization schedule beginning on the Delivery Date and (b) for Cloud Services, Customer shall be entitled to a refund pursuant to Section 12.3; and Customer will be entitled to terminate any Support Services related to such Software and if Customer elects to do so, those Support Services will terminate on the date specified in the notice of termination issued by Customer to LogRhythm and LogRhythm will refund to Customer the unexpired portion of the Support Services Fees.

35.3   Exclusions. Notwithstanding the foregoing, LogRhythm will have no obligation under this Section 7.3 or otherwise with respect to any Claim based upon: (a) any use of the Product or Cloud Service not in accordance with this Agreement; (b) any use of the Product or Cloud Service or use thereof would not infringe without such combination; (c) use of any release of the Software other than the most current release made available to Customer, provided that LogRhythm notified Customer that any Update to the Software could avoid infringement and LogRhythm will provide indemnity for use up to the date of such notification; or (d) any modification of the Software or Cloud Service by any person other than LogRhythm or its authorized agents or subcontractors. This section 7 constitutes Customer's exclusive remedy and LogRhythm's only liability in respect of Claims.

36.   LIMITATION OF LIABILITY. Subject to section 7 and section 8, in no event will either party be liable for the following loss or damage arising from or relating to this Agreement, howsoever caused, whether direct or indirect and even if such party has been advised of the possibility of such damages: (a) for any loss or corruption of data; (b) loss of profit; (c) loss of revenue; (d) loss of business opportunity; (e) loss of anticipated savings or damage to goodwill; or (f) any consequential, indirect, exemplary, special, or incidental damages. This section 8 shall not prevent claims for loss of or damage to

Customer's tangible property that falls within the terms of section 8 or any other claims for direct financial loss that are not excluded by this section 8 or in the LogRhythm's case, claims for loss or damage resulting from Customer's breach of any of LogRhythm's Intellectual Property Rights, for which the Customers liability shall be unlimited.

37. **TOTAL LIABILITY.** Subject to section 7 and section 8, LogRhythm's total cumulative liability in connection with this Agreement, the Products, Cloud Services and related services, whether in contract or tort (including negligence) or otherwise, will not exceed a sum equal to 1.25 times the amount of fees (including Support Services Fees (if any)) paid or payable by Customer to Authorized Reseller during the twelve (12) month period preceding the events giving rise to such liability or five thousand British pounds (GBP£5,000), whichever is the higher.

38. **LIABILITY NOT EXCLUDED.** Neither party excludes its liability in respect of: death or personal injury caused by the negligence of that party, its servants or agents; or liability for fraud or fraudulent misrepresentation; or breach of statutory warranties of title and quiet possession; or such other liability which cannot be excluded or limited by law.

39. **CONFIDENTIALITY.**

39.1 **Confidential Information.** For purposes of this section 11 ("Information") means information that is disclosed by a party ("Discloser") to the other party ("Recipient"), or which Recipient has access to in connection with this Agreement, and that should reasonably have been understood by Recipient to be proprietary and confidential to Discloser or to a third party, because of legends or other markings, the circumstances of disclosure or the nature of the information itself. Information may be disclosed in written or other tangible form (including on magnetic media) or by oral, visual or other means. Information includes, without limitation, information of or relating to the Discloser's present or future products, know-how, formulas, designs, processes, ideas, inventions and other technical, business and financial plans, processing information, pricing information, specifications, research and development information, customer lists, the identity of any customers or suppliers, forecasts and any other information relating to any work in process, future development, marketing plans, strategies, financial matters, personnel matters, investors or business operations of the Discloser, as well as the terms of this Agreement.

39.2 **Protection of Information.** Recipient will not use any Information of Discloser for any purpose not expressly permitted by the Agreement and will disclose the Information of Discloser only to the employees or contractors of Recipient who have a need to know such Information for purposes of the Agreement and who are under a duty of confidentiality no less restrictive than Recipient's duty hereunder. Recipient will protect Discloser's Information from unauthorized use, access, or disclosure in the same manner as Recipient protects its own confidential or proprietary information of a similar nature and with no less than reasonable care.

39.3 **Exceptions.** Recipient's obligations under Section 11.2 with respect to any Information of Discloser will terminate if such information: (a) was already known to Recipient at the time of disclosure by Discloser; (b) was disclosed to Recipient by a third party who had the right to make such disclosure without any confidentiality restrictions; (c) is, or through no fault of Recipient has become, generally available to the public; or (d) was independently developed by Recipient without access to, or use of, Discloser's Information. In addition, Recipient will be allowed to disclose Information of Discloser to the extent that such disclosure is: (i) approved in writing by Discloser; (ii) necessary for Recipient to enforce its rights under the Agreement in connection with a legal proceeding; or (iii) required by law or by the order of a court of similar judicial or administrative body, provided that Recipient notifies Discloser of such required disclosure promptly and in writing and cooperates with Discloser, at Discloser's request and expense, in any lawful action to contest or limit the scope of such required disclosure.

39.4 **Return of Information.** Except as otherwise expressly provided in this Agreement, Recipient will return to Discloser or destroy all Information of Discloser in Recipient's possession or control and permanently erase all electronic copies of such Information. Recipient will certify in writing signed by an officer of Recipient that it has fully complied with its obligations under this Section 11.5.

40. **TERM AND TERMINATION**

40.1 **Term.** The term of the Agreement continues until terminated as provided in Section 12.2 (the "Term").

40.2 **Termination.** Either party may terminate the Agreement if the other party breaches any material provision of the Agreement and (if such breach is remediable) does not cure such breach within thirty (30) days after receiving written notice thereof. Subscription Term Agreements expire at the end of the Subscription Term.

40.3 **Refund or Payment upon Termination.** If this Agreement is terminated by Customer in accordance with Section 12.2 (Termination), LogRhythm will refund Customer any prepaid, unused fees for services. If this Agreement is terminated by LogRhythm in accordance with Section 12.2, Customer will pay any unpaid fees covering the remainder of the applicable term of all Orders. In no event will termination relieve Customer of its obligation to pay any fees payable to LogRhythm prior to the effective date of termination.

40.4 **Effects of Termination.** Upon termination of this Agreement: (i) all license and use rights granted in this Agreement will immediately cease to exist, and (ii) and Customer must promptly discontinue all use of the Software, erase all copies of the Software from Customer's computers, return to LogRhythm or destroy all copies of the Software, Documentation and

other LogRhythm Information in Customer's possession or control. Sections 1, 5, 7.3, 8, 9, 10, 11, 12, 13, and Sections 3 and 7 of the Cloud Services Addendum, together with any accrued payment obligations, will survive expiration or termination of the Agreement for any reason, together with any accrued payment obligations and any other sections of this Agreement which expressly or by their nature survive expiry or termination.

41. GENERAL

41.1   Proprietary Rights. The Software, Cloud Services and Documentation, and all worldwide Intellectual Property Rights therein, are the exclusive property of LogRhythm and its licensors. All rights in and to the Software, Cloud Services and Documentation not expressly granted to Customer in this Agreement are reserved by LogRhythm and its licensors. Customer will not remove, alter, or obscure any proprietary notices (including copyright notices) of LogRhythm or its licensors on the Software, Cloud Services or Documentation.

41.2   Compliance with Laws. Each party shall comply with all laws, rules, and regulations, applicable to that party in connection with this Agreement, including all applicable export and import control laws and regulations in its use of the Products and Cloud Services and, in particular, neither party shall export or re-export Products without all required government licenses and each party agrees to comply with the export laws, restrictions, national security controls and regulations of the all applicable foreign agencies or authorities. Customer shall not export, reexport, or transfer, directly or indirectly, any information, process, product, technology, funds or services to countries or territories specified as prohibited destinations under U.S. trade controls laws, including Cuba, Iran, North Korea, Sudan, Syria, and the Crimea region or as otherwise prohibited by U.S. trade control laws, including the economic sanctions and export control laws and regulations administered by the U.S. Department of Commerce, U.S. Department of the Treasury, and U.S. Department of State.

41.3   Anti-Bribery. LogRhythm shall: (a) comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("Relevant Requirements"); (b) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK; (c) have and shall maintain in place throughout the term of this agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010 or any other applicable legislation, to ensure compliance with the Relevant Requirements and Section 14.3(b), and will enforce them where appropriate; (d) promptly report to Customer any request or demand for any undue financial or other advantage of any kind received by LogRhythm in connection with the performance of this Agreement; (e) immediately notify Customer (in writing) if a foreign public official becomes an officer or employee of the LogRhythm and/or acquires a direct or indirect interest in the LogRhythm (and LogRhythm warrants that it has no foreign public officials as officers or employees and/or direct or indirect owners at the date of this Agreement); (f) on written request, certify to Customer in writing signed by an officer of LogRhythm, compliance with this Section 14.3 by LogRhythm and all persons associated with it and all other persons for whom the LogRhythm is responsible under Section 14.3(c). LogRhythm shall provide such supporting evidence of compliance as Customer may reasonably request. LogRhythm shall ensure that any person associated with LogRhythm who is performing services or providing goods in connection with this Agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on LogRhythm in this Section 14.3 ("Relevant Terms"). LogRhythm shall in all circumstances be responsible for the observance and performance by such persons of the Relevant Terms and shall in all circumstances be directly liable to the Company for any breach by such persons of any of the Relevant Terms howsoever. Breach of this Section 14.3 shall be deemed an irredeemable material breach. For the purpose of this Section 14.3, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively, or if applicable, any equivalent provisions of any other applicable legislation in another jurisdiction. For the purposes of this Section 14.3 a person associated with LogRhythm includes but is not limited to any subcontractor of LogRhythm.

41.4   Anti-Slavery: LogRhythm shall take reasonable steps to ensure that slavery and human trafficking (as such phrase is defined in section 54(12), Modern Slavery Act 2015, or any equivalent provision in equivalent legislation in another applicable jurisdiction) is not taking place in any of its supply chains or in any part of its own business. LogRhythm shall, at the Customer's request, provide the Customer with a statement of such steps it has taken, together with such other information as the Customer may reasonably require in order to enable it to prepare a slavery and human trafficking statement in accordance with section 54, Modern Slavery Act 2015, or any equivalent provision in equivalent legislation in another applicable jurisdiction.

41.5   Assignment. Neither party may assign, novate or transfer, by operation of law or otherwise, this Agreement or any of its rights under the Agreement (including the benefit of the Support Services and the Professional Services and the licence rights granted to the Customer to the Software) to any third party without the other party's prior written consent, provided that such third party assignee or transferee shall agree to be bound by the terms of this Agreement; except that LogRhythm shall have the right to assign this Agreement, without consent, to any successor to all or substantially all its business or assets to which this Agreement relates, whether by merger, sale of assets, sale of stock, reorganization or otherwise. Any attempted assignment novation or transfer in breach of the foregoing will be null and void.

41.6   Force Majeure. Except for any payment obligations, neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder for any cause which is beyond the reasonable control of such party. In such circumstances, the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for 3 months, the party not affected may terminate this agreement by giving 30 days written notice to the affected party.

41.7   Notices. All notices, consents, and approvals under this Agreement must be delivered in writing by courier, by electronic mail, facsimile (fax), or by certified mail, (postage prepaid and return receipt requested) to the other party at the address set forth on the Order and will be effective upon receipt or when delivery is refused. Either party may change its address by giving notice in writing of the new address to the other party.

41.8   Governing Law and Jurisdiction. This Agreement, all Statements of Work and any dispute or claim arising out of or in connection with the same or its subject matters or formation (including non-contractual disputes or claims) will be governed by and interpreted in accordance with English Law, without reference to its choice of laws rules. Any dispute arising out of or in connection with this contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the LCIA Rules, which Rules are deemed to be incorporated by reference into this clause. The number of arbitrators shall be one. The seat, or legal place, of arbitration shall be London, England. The language to be used in the arbitral proceedings shall be English.

41.9   Remedies. Except as provided in Sections 8 and 9, the parties' rights and remedies under the Agreement are cumulative. Customer acknowledges that the Software contains valuable trade secrets and proprietary information of LogRhythm, that any actual or threatened breach of Section 2 by Customer will constitute immediate, irreparable harm to LogRhythm for which monetary damages would be an inadequate remedy, and that injunctive relief is an appropriate remedy for such breach. If any legal action is brought by a party to enforce the Agreement, the prevailing party will be entitled to receive its reasonable legal fees, court costs, and other collection expenses, in addition to any other relief it may receive.

41.10   Waivers. All waivers must be in writing. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

41.11   Third Party Software. Certain Third-Party Software may be provided with the Product or used in the Cloud Services that is subject to the accompanying license(s), if any, of its respective owner(s). To the extent portions of the Product or Cloud Services are distributed under and subject to open source licenses obligating LogRhythm to make the source code for such portions publicly available (such as the GNU General Public License ("GPL") or the GNU Library General Public License ("LGPL")), LogRhythm will make such source code portions (including LogRhythm modifications, as appropriate) available upon request for a period of up to three (3) years from the date of distribution. Such request can be made in writing to 4780 Pearl East Circle, Boulder, CO 80301: Attn: Legal Department. Customer may obtain a copy of the GPL at http://www.gnu.org/licenses/gpl.html, and a copy of the LGPL at http://www.gnu.org/licenses/lgpl.html. Subject to the terms of any applicable open source license(s), Third Party Software is licensed solely for use as embedded or integrated with the Product or Cloud Services.

41.12   Severability. If any provision of this Agreement is unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law or shall, to the extent required, be deemed not to form part of this Agreement, in either case, the remaining provisions of this Agreement will continue in full force and effect. Without limiting the generality of the foregoing, Section 8 will remain in effect notwithstanding the unenforceability of any provision in Section 6.

41.13   Construction. The headings of sections of this Agreement are for convenience and are not to be used in interpreting this Agreement. As used in this Agreement, the word "including" means "including but not limited to."

41.14   Third Parties. The parties confirm that this Agreement is not intended to confer any rights on third parties and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

41.15   Entire Agreement. This Agreement (including the addendums and attachments and all Orders and Statements of Work made hereunder) constitutes the entire agreement between LogRhythm and the Customer regarding the subject hereof and supersedes all prior or contemporaneous agreements, understandings, and communication, whether written or oral.

Each party acknowledges that, in entering into this Agreement, it has not relied on any statement, representation (whether negligent or innocent), assurance or warranty, whether written or oral, of any person (whether a party to this Agreement or not) other than as expressly set out in this Agreement and that it shall have no remedy in respect of such representations. This section shall not apply to any statement, representation, assurance or warranty made fraudulently. Each party agrees and undertakes to the other party that the only rights and remedies available to it arising out of or in connection with this Agreement or its subject matter shall be for breach of contract. Unless otherwise specified in a future Order, this Agreement governs all future transactions for LogRhythm products between the parties.

41.16   Amendment This Agreement may be amended only by a written document signed by both parties. The terms of any purchase order or similar document submitted by Customer to LogRhythm will have no effect.

42.   DEFINITIONS.

42.1   "**Affiliate**" means, with respect to a party, any other entity that directly or indirectly controls, is controlled by or is under common control with such entity, where "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such entity through the ownership of fifty percent (50%) or more of the outstanding voting securities (but only for as long as such entity meets these requirements).

42.2   "**Appliance**" means a Product comprised of Hardware and Software installed on that Hardware.

42.3   "**Authorized Reseller**" means a reseller, distributor or partner authorized and approved by LogRhythm to resell the Products, Cloud Services and related services.

42.4   "**Cloud Service**" means a software as a service or other cloud-based offering that LogRhythm provides using the Software.

42.5   "**Cloud Service Subscription**" means a right to access and use a LogRhythm Cloud Service for the duration specified in the applicable Order.

42.6   "**Customer Data**" means Information (as defined in Section 11) that is (a) disclosed or provided to LogRhythm by or on behalf of Customer, or (b) collected or received from Customer by LogRhythm.

42.7   "**Delivery Date**" means the date of delivery of the applicable Hardware, Appliance or, if Software only, the Software.

42.8   "**Documentation**" means the user manuals provided to Customer with the Software, Hardware Appliance or Cloud Service upon delivery or activation, in either electronic, online help files or hard copy format. All Documentation is provided in English.

42.9   "**Error**" means a reproducible defect in a Product, which causes the Product not to operate substantially in accordance with the Documentation.

42.10   "**Hardware**" means the hardware supplied from LogRhythm as set forth on an Order.

42.11   "**Intellectual Property Rights**" means all intellectual and industrial property rights throughout the world, including but not limited to copyright and related rights, trademarks, service marks, rights to preserve the confidentiality of information (including know-how and trade secrets), trade names, domain names, rights in get-up, goodwill and right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, patents, patent applications, moral rights, contract rights and other intellectual proprietary rights, including all applications for (and right to apply for and be granted) renewals or extensions of, and right to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, or in any party of the world.

42.12   "**License Subscription**" means a term license to Software, the duration of which is specified in the applicable Order.

42.13   "**Order**" means ordering documentation between Customer and LogRhythm or an Authorized Reseller and may include a signed quotation from LogRhythm or a Customer purchase order accepted by LogRhythm or the Authorized Reseller.

42.14   "**Perpetual**" means the license right to use the Software indefinitely.

42.15   "**Product**" means the Software, Hardware, and/or Appliances.

42.16   "**Software**" means the LogRhythm software programs identified in an Order, including Third Party Software, and any Upgrade, Update or Maintenance Release (as defined in the Support Services Addendum) that LogRhythm provides to Customer pursuant to the Support Services.

42.17   "**Subscription**" means the license right to use the Software for the term specified in an Order.

42.18   "**Support Services**" means LogRhythm's technical support and maintenance services set forth in the Support Services Addendum.

42.19   "**Third Party Software**" means any software that is provided with the Software but that is not owned by LogRhythm.

42.20   "**User**" means individuals or a unique entry in Customer's directory of record for customers employees, which includes but is not limited to employees, contractors or agents of Customer actively utilizing Customer's IT infrastructure and any end customers monitored by Customer. End Customers can include unique active directory entries of Customer's customers for example, a payment, billing, or authentication system used by the Customer to conduct business with the end customers.

43.   LICENSE GRANT AND OTHER RIGHTS.

43.1   Software License Grant. Subject to the terms and conditions of this Agreement and payment by Customer of all license fees due for the Software, LogRhythm grants to Customer during the Term, (either a Perpetual license or Subscription license as specified in the Order), a non-exclusive, non-transferable (except as set forth in Section 13.3) license to use the Software solely for Customer's internal business purposes in accordance with the Documentation and any limitations set forth in this Agreement or the Order. If Customer has purchased an Appliance, the Software license may only be used on the Appliance with which the Software is delivered. If Customer elects to deploy the Software for use in another host environment or another virtual environment (including any copy of the Software for backup and disaster recovery purposes), each instance requires its own license for which Customer will need a license key which shall be provided by LogRhythm upon request of Customer. The Software shall be deemed delivered when a license key which unlocks the Software is provided to Customer.

43.2   License Metrics. If Customer's Product is licensed by: (a) messages per second ("MPS") as specified in the Order, the MPS use limitation of the license refers to a rolling 24-hour average of messages per second received by the Software whereby "message" means each individual log or system event received by the Product including without limitation flat file, SNMP, SMTP, netflow (j flow and S flow), syslog or other event or system record. Customer may exceed the MPS limitation by up to 10% without additional charge, and Customer will not be charged for a one-time anomalous event that causes a spike in MPS usage above the specified MPS limitation; (b) network bandwidth (specified in the Order as a bandwidth or bandwidth per second such as 1GB or 1GB/second), the network bandwidth use limitation refers to a rolling 15-minute average of network bandwidth usage per second; (c) "Identity", an Identity is a unique person or service account. A person-based Identity may have multiple identifiers such as user accounts, email addresses, and phone numbers. A service account is a user account that is created explicitly to provide an authentication context for a computer or set of computers and/or services running on that computer. An Identity license is required for each unique person-based Identity and each unique service account; or (d) User, as defined above, is based on Customer's identity directory of record for its User count at the inception of the Order.

43.3   No Rights for Affiliate Usage. Customer is the only entity that may use the Software under this Agreement and the rights granted to Customer under this Agreement do not extend to any Customer Affiliate. Customer shall not permit any Customer Affiliates to use the Software on behalf of Customer or on behalf of such Affiliates. Any Customer Affiliate that desires to license the Software may enter into a separate Order with LogRhythm utilizing these Terms which shall be a separate agreement between LogRhythm and such Customer Affiliate.

43.4   System Files. All SQL Server database files and transaction logs (collectively "System Files"), used by an Appliance must reside on either the Appliance or an external storage device ("Supported Equipment"). Notwithstanding the foregoing, System Files do not include LogRhythm archive files.

43.5   Restrictions on Use. Except as expressly permitted by this Agreement, Customer shall not: (a) modify, adapt, alter, translate, or create derivative works from the Software, Cloud Services or Documentation; (b) rent, lease, loan, sublicense, distribute, sell or otherwise transfer the Software, Cloud Services or Documentation to any third party; (c) use the Software or Cloud Services in a service bureau or time sharing arrangement; (d) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code for the Software or Cloud Services; (e) otherwise use or copy the Software, Cloud Services or Documentation except as expressly permitted in this Agreement; or (f) disclose to any third party the results of any benchmark tests or other evaluation of the Software or Cloud Services. If Customer will utilize the Cloud Services for any purpose other than the detection, mitigation, containment and eradication of cyberthreats, Customer is responsible for notice to, and obtain consents from, individuals as required by applicable law.

44.   CLOUD SERVICES. If Customer orders and pays for Cloud Services, the terms and conditions set forth in the Cloud Services Addendum located on the LogRhythm website at https://gallery.logrhythm.com/terms-and-conditions/addendums/logrhythm-cloud-services-addendum-8-2019.pdf and incorporated herein or attached to this Agreement shall apply to such Cloud Services in addition to the terms of this Agreement.

45.   HARDWARE. If Customer orders and pays for Hardware from LogRhythm, the terms and conditions set forth in the Hardware Addendum located on the LogRhythm website at https://gallery.logrhythm.com/terms-and-conditions/addendums/logrhythm-hardware-procurement-addendum-8-2019.pdf and incorporated herein or attached to this Agreement shall apply to such Hardware purchases.

46.   EVALUATION PRODUCTS. Notwithstanding Section 2, if Customer is provided with evaluation Products, then the term of use for evaluation will be limited to the free trial period specified in the Order or as otherwise determined by LogRhythm (the "Evaluation Period"). During the Evaluation Period, LogRhythm grants to Customer a limited, non-exclusive, non-transferable, non-sublicensable license to install and use the evaluation Products for Customer's internal use in a non-production capacity to test and evaluate the Software to assist Customer in its purchase decision. Any evaluation Hardware provided to Customer shall remain the property of LogRhythm. Upon the expiration of the Evaluation Period, the license granted to Customer will terminate and, within five (5) days after such termination, Customer will, at its own expense, uninstall all copies of the evaluation Software, and return the evaluation Hardware, if applicable, to LogRhythm. **The evaluation of the Products is provided "AS IS" and no warranty obligations of LogRhythm will apply and Support Services obligations do not apply to any evaluation Products.**

47.   SUPPORT SERVICES; DEPLOYMENT; TRAINING.

47.1   **Support Services.** Support Services shall be subject to terms and conditions set forth in the Support Services Addendum located on the LogRhythm website at https://gallery.logrhythm.com/terms-and-conditions/addendums/logrhythm-support-services-addendum-8-2109.pdf and incorporated herein or attached to this Agreement. The initial Support Services term for Software licensed on a perpetual basis is one year beginning on the Delivery Date unless otherwise specified in the Order ("Initial Support Term"). Thereafter, Support Services shall renew automatically for additional one-year terms unless Customer elects to terminate Support Services by providing LogRhythm with written notice of its intent not to renew Support Services at least 30 days prior to the end of the applicable annual Support Services term. Support Services for Subscriptions are included in the Subscription Fee and Support Services are provided during the Subscription Term. Upon termination of such Support Services for a Perpetual license, Customer may continue to use the Software in accordance with this Agreement without Support Services. If Support Service Fees are not included in the Product, then Support Services Fees for the Initial Support Term are set forth in the applicable Order and are invoiced on the Delivery Date. LogRhythm may increase Support Services Fees for a Support Services renewal term up to seven percent over the prior year's Support Services Fees.

47.2   **Professional Services.** Subject to payment of the professional service fees ("Professional Service Fees") set forth in an Order, LogRhythm shall provide to Customer the professional services specified in the Order and in accordance with Professional Services Addendum located on the LogRhythm website at https://gallery.logrhythm.com/terms-and-conditions/addendums/logrhythm-professional-services-addendum-8-2019.pdf and incorporated herein or attached to this Agreement ("Professional Services"). Unless otherwise specified in an Order, Customer must use any contracted Professional Services within one year of the effective date of the Order for such Professional Services. Unless otherwise expressly stated in an Order, Customer shall pay all LogRhythm's reasonable travel, meals and lodging costs and expenses incurred by LogRhythm in connection with the provision of all services by LogRhythm at Customer's facilities under this Agreement. Upon Customer's request, LogRhythm shall submit written evidence of each such expenditure to Customer prior to receiving reimbursement of such costs and expenses.

47.3   **Training.** Subject to payment of any training fees ("Training Fees"), Customer may obtain training services from LogRhythm in accordance with the applicable Order ("Training Services"). Customer must use any contracted Training Services within fifteen months of the date of purchase of such Training Services.

48.   FEES AND PAYMENT.

48.1   **Payment**. Customer shall pay LogRhythm or the Authorized Reseller the applicable fees specified in the Order ("Fees"). Unless otherwise expressly provided in this Agreement, LogRhythm shall invoice Customer on the Delivery Date and Customer shall pay all invoices within thirty (30) days from the date of the invoice. Fees exclude, and Customer shall make all payments of Fees to LogRhythm free and clear of, all applicable sales, use, and other taxes (excluding taxes based on LogRhythm's income) and all applicable export and import fees, customs duties and similar charges. If LogRhythm has a legal obligation to pay or collect taxes for which Customer is responsible under the Agreement, then the appropriate amount shall be invoiced to and paid by Customer, unless Customer specifies in the applicable Order that it claims tax exempt status for amounts due under the Agreement and provides LogRhythm a valid tax exemption certificate (authorized by the applicable governmental authority) at least five (5) business days prior to the date of the applicable LogRhythm invoice. LogRhythm may charge interest on all late payments at a rate of one and one-half percent (1½%) per month or the maximum rate permitted by applicable law; whichever is less, from the due date until paid. All Fees are non-refundable unless otherwise expressly stated herein. If Customer purchases product or services through an Authorized Reseller, price and payment terms are between Customer and the Authorized Reseller.

48.2   **Reports; Audit Rights**. LogRhythm may periodically run a report to determine the number of MPS Customer is utilizing with the Products. LogRhythm may audit or to appoint an independent audit firm selected by LogRhythm to audit Customer's records relating to Customer's use of the Products pursuant to this Agreement to verify that Customer has complied with the terms of this Agreement and to verify Customers compliance with the license for the Products licensed. Any audit shall be conducted no more than once in any period of 12 consecutive months during Customer's normal business hours and upon at least 15 days' prior written notice. The audit shall be conducted at LogRhythm's expense unless the audit reveals that Customer has underpaid the amounts owed to LogRhythm by 5% or more, in which case Customer shall reimburse LogRhythm for all reasonable costs and expenses incurred by LogRhythm in connection with such audit. Customer shall promptly pay to LogRhythm any amounts owed plus interest as provided in Section 7.1.

49.   WARRANTY.

49.1   **Product Warranty.** For a period of ninety (90) days after the Delivery Date (the "Warranty Period"), LogRhythm warrants that the Products, when used in accordance with the instructions in the applicable Documentation, will operate as described in the Documentation in all material respects. LogRhythm does not warrant that Customer's use of the Products will be error-free or uninterrupted. LogRhythm will, at its own expense and as its sole obligation and Customer's exclusive remedy for any breach of this warranty, correct any reproducible Error in the Products or replace any defective Product provided that such Error is reported to LogRhythm by Customer in writing during the Warranty Period and that Customer

provides all information that may be necessary to assist LogRhythm in resolving the Error, or sufficient information to enable LogRhythm to recreate the Error. If LogRhythm determines that it is unable to correct the Error or replace the Product, Customer may terminate this Agreement and LogRhythm shall refund to Customer all Product and Support Service fees actually paid for the defective Product, in which case Customer's right to use the Product shall terminate.

49.2   Disclaimers. THE EXPRESS WARRANTIES IN SECTION 8.1 ARE THE ONLY WARRANTIES APPLICABLE TO THE PRODUCTS. LOGRHYTHM AND ITS SUPPLIERS EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, REGARDING THE PRODUCTS, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND ANY WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE WHICH ARE HEREBY DISCLAIMED. EXCEPT FOR THE EXPRESS WARRANTIES STATED IN SECTION 8.1, THE PRODUCTS ARE PROVIDED "AS IS" WITH ALL FAULTS.

50.   INFRINGEMENT CLAIMS.

50.1   Indemnity. LogRhythm shall defend Customer, at LogRhythm's expense, against any claim, demand, suit, or proceeding brought against Customer by a third party alleging that the Software infringes or misappropriates such third party's Intellectual Property Rights (each, a "Claim"), and LogRhythm will indemnify Customer from any damages, attorney's fees and costs finally awarded against Customer as a result of, or for amounts paid by Customer under a settlement approved by LogRhythm in writing of, a Claim against Customer provided that Customer: (a) notifies LogRhythm promptly in writing of the Claim; (b) does not make any admission of liability, agreement or compromise in relation to any Claim without the prior written consent of LogRhythm (such consent not to be unreasonably conditioned, delayed or withheld); (c) gives LogRhythm sole control of the defense thereof and any related settlement negotiations; (d) reasonably cooperates and, at LogRhythm's request and expense, assisting in such defense; and (e) wherever and whenever possible takes all reasonable steps to mitigate its losses that are the subject of the Claim.

50.2   Injunction. If a Product becomes, or in LogRhythm's opinion is likely to become, the subject of an infringement claim, LogRhythm may, at LogRhythm's discretion and at no cost to Customer: (a) procure for Customer the right to continue using the Product; (b) replace or modify the Product so that it becomes non-infringing and remains functionally equivalent; or (c) if in LogRhythm's reasonable opinion, neither option (a) or (b) is commercially viable, notify Customer in writing that this Agreement will terminate on the date specified in the notice of termination issued by LogRhythm to Customer. If the Agreement is terminated under this Section 9.2, LogRhythm will refund Customer the fees paid for such Product upon return of the Product, computed according to a thirty-six (36) month straight-line amortization schedule beginning on the Delivery Date.

50.3   Exclusions. Notwithstanding the foregoing, LogRhythm shall have no obligation under this Section 9.3 or otherwise with respect to any Claim to the extent based on: (a) any use of the Product not in accordance with this Agreement or the Documentation; (b) any use of the Product in combination with other products, hardware, equipment, or software not provided by LogRhythm if the Product or use thereof would not infringe without such combination; (c) use of any release of the Software other than the most current release made available to Customer; provided that LogRhythm notified Customer that any Update to the Software could avoid infringement and further provided that LogRhythm will provide indemnity for use up to the date of such notification; or (d) any modification of the Software by any person other than LogRhythm or its authorized agents or subcontractors. This Section 9 states LogRhythm's entire liability and Customer's exclusive remedy for infringement claims and actions.

51.   LIMITATION OF LIABILITY. IN NO EVENT WILL EITHER PARTY BE LIABLE UNDER THIS AGREEMENT FOR ANY CONSEQUENTIAL, INDIRECT, EXEMPLARY, SPECIAL, OR INCIDENTAL DAMAGES, INCLUDING ANY LOST DATA, LOST PROFITS OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, ARISING FROM OR RELATING TO THIS AGREEMENT EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TOTAL CUMULATIVE LIABILITY OF LOGRHYTHM AND ITS THIRD-PARTY SUPPLIERS IN CONNECTION WITH THIS AGREEMENT, WHETHER IN CONTRACT OR TORT OR OTHERWISE, SHALL NOT EXCEED THE AMOUNT OF FEES PAID TO LOGRHYTHM DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENTS GIVING RISE TO SUCH LIABILITY. THE FOREGOING LIMITATIONS OF LIABILITY SHALL NOT APPLY TO LIABILITY ARISING FROM A BREACH OF SECTIONS 2.5 OR 11, ANY INDEMNITY OBLIGATIONS IN SECTION 9 OR ANY VIOLATIONS OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS.

52.   CONFIDENTIALITY.

52.1   Confidential Information. For purposes of this Section 11, ("Information") means information that is disclosed by a party ("Discloser") to the other party ("Recipient"), or which Recipient has access to in connection with this Agreement, and that should reasonably have been understood by Recipient to be proprietary and confidential to Discloser or to a third party, because of legends or other markings, the circumstances of disclosure or the nature of the information itself. Information may be disclosed in written or other tangible form (including on magnetic media) or by oral, visual or other means. Information includes, without limitation, information of or relating to the Discloser's present or future products, know-how, formulas, designs, processes, ideas, inventions and other technical, business and financial plans, processing

information, pricing information, specifications, research and development information, customer lists, the identity of any customers or suppliers, forecasts and any other information relating to any work in process, future development, marketing plans, strategies, financial matters, personnel matters, investors or business operations of the Discloser, as well as the terms of this Agreement.

52.2   Protection of Information. Recipient shall not use any Information of Discloser for any purpose not expressly permitted by the Agreement and shall disclose the Information of Discloser only to the employees or contractors of Recipient who have a need to know such Information for purposes of the Agreement and who are under a duty of confidentiality no less restrictive than Recipient's duty hereunder. Recipient shall protect Discloser's Information from unauthorized use, access, or disclosure in the same manner as Recipient protects its own confidential or proprietary information of a similar nature and with no less than reasonable care.

52.3   Exceptions. Recipient's obligations under Section 11.2 with respect to any Information of Discloser shall terminate if such information: (a) was already known to Recipient at the time of disclosure by Discloser; (b) was disclosed to Recipient by a third party who had the right to make such disclosure without any confidentiality restrictions; (c) is, or through no fault of Recipient has become, generally available to the public; or (d) was independently developed by Recipient without access to, or use of, Discloser's Information. In addition, Recipient shall be allowed to disclose Information of Discloser to the extent that such disclosure is: (i) approved in writing by Discloser; (ii) necessary for Recipient to enforce its rights under the Agreement in connection with a legal proceeding; or (iii) required by law or by the order of a court of similar judicial or administrative body, provided that Recipient notifies Discloser of such required disclosure promptly and in writing and cooperates with Discloser, at Discloser's request and expense, in any lawful action to contest or limit the scope of such required disclosure.

52.4   Return of Information. Except as otherwise expressly provided in this Agreement, Recipient shall return to Discloser or destroy all Information of Discloser in Recipient's possession or control and permanently erase all electronic copies of such Information promptly upon the written request of Discloser. Recipient shall certify in writing signed by an officer of Recipient that it has fully complied with its obligations under this Section 11.4.

53.   TERM AND TERMINATION.

53.1   Term. The "Term" of a Perpetual Term Agreement continues until terminated as provided in Section 12.2. The "Term" of a Subscription Term Agreement expires at the end of the Subscription Term unless the Subscription Term is renewed by the parties.

53.2   Termination. Either party may terminate the Agreement if the other party breaches any material provision of the Agreement and does not cure such breach within 30 days of receiving written notice thereof.

53.3   Refund or Payment upon Termination. If this Agreement is terminated by Customer in accordance with Section 12.2, LogRhythm will refund Customer: (a) any prepaid, unused Fees for services after the effective date of termination. If this Agreement is terminated by LogRhythm in accordance with Section 12.2, Customer will pay any unpaid Fees covering the remainder of the applicable term of all Orders. In no event will termination relieve Customer of its obligation to pay any Fees payable to LogRhythm prior to the effective date of termination.

53.4   Effects of Termination. Upon termination of this Agreement: (i) all license and use rights granted in this Agreement shall immediately terminate; and (ii) Customer must promptly discontinue all use of the Software, erase all copies of the Software from Customer's computers, return to LogRhythm or destroy all copies of the Software, Documentation and other LogRhythm Information in Customer's possession or control. Sections 1, 2.5, 7, 9, 10, 11, 13 and Sections 3 and 7 of the Cloud Services Addendum together with any accrued payment obligations, shall survive expiration or termination of the Agreement for any reason, together with any accrued payment obligations and any other sections of this Agreement which expressly or by their nature survive expiry or termination.

54.   GENERAL.

54.1   Proprietary Rights. The Products and Documentation, and all worldwide Intellectual Property Rights therein, are the exclusive property of LogRhythm and its suppliers. All rights in and to the Products and Documentation not expressly granted to Customer in this Agreement are reserved by LogRhythm and its licensors. Customer shall not remove, alter, or obscure any proprietary notices (including copyright notices) of LogRhythm or its licensors on the Products or Documentation.

54.2   Compliance with Laws. Each party shall comply with all laws, rules, and regulations, applicable to that party in connection with this Agreement, including all applicable export and import control laws and regulations in its use of the Products and, in particular, neither party shall export or re-export Products without all required government licenses and each party agrees to comply with the export laws, restrictions, national security controls and regulations of all the applicable foreign agencies or authorities. Customer shall not export, reexport, or transfer, directly or indirectly, any information, process, product, technology, funds or services to countries or territories specified as prohibited destinations under U.S. trade controls laws or as otherwise prohibited by U.S. trade control laws, including the economic sanctions and export control laws and regulations administered by the U.S. Department of Commerce, U.S. Department of the Treasury, and U.S. Department of State.

54.3   Assignment. Neither party shall have the right to assign, novate or transfer, by operation of law or otherwise, this Agreement or any of its rights under the Agreement without the other party's prior written consent, which consent shall not be unreasonably withheld or delayed; except LogRhythm shall have the right to assign this Agreement, without consent, to any successor to all or substantially all its business or assets to which this Agreement relates, whether by merger, sale of assets, sale of stock, reorganization or otherwise. Any attempted assignment, novation or transfer in violation of the foregoing will be null and void. This Agreement is binding upon and inures to the benefit of the parties, and to their permitted successors and assigns.

54.4   Force Majeure. Except for any payment obligations, neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder for any cause which is beyond the reasonable control of such party.

54.5   U.S. Government End Users. If Customer is a branch or agency of the United States Government, the following provision applies. The Software and Cloud Services are comprised of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212 and are provided to the Government (a) for acquisition by or on behalf of civilian agencies, consistent with the policy set forth in 48 C.F.R. 12.212; or (b) for acquisition by or on behalf of units of the Department of Defense, consistent with the policies set forth in 48 C.F.R. 227.7202-1 and 227.7202-3.

54.6   Notices. Any notices or other communications required or permitted to be given or delivered under this Agreement shall be in writing and delivered by one of the following methods: (a) personal delivery; (b) registered or certified mail, in each case, return receipt requested and postage prepaid; or (c) nationally recognized overnight courier specifying next day delivery and notification of receipt. Operational approvals and consents required under this Agreement may be delivered by e-mail. A notice meeting all requirements of this Section 12.6 will be deemed effectively received: (i) upon personal delivery to the party to be notified; (ii) three (3) business days after having been sent by registered or certified mail; (iii) one business day after deposit with a nationally recognized overnight courier; or (iv) on the date on which such notice is delivered by e-mail transmission. A party shall deliver notices to the address, e-mail address number set forth on the applicable Order or to such other address, e-mail address or facsimile number as a party may designate by ten (10) days' advance written notice to the other parties.

54.7   Governing Law. The laws of the State of Colorado shall govern this Agreement, without regard to any conflicts of laws principles that would require the application of the laws of a different jurisdiction. The U.N. Convention for the International Sale of Goods is expressly excluded from, and does not apply to, this Agreement.

54.8   Venue. Any party bringing a legal action or proceeding against the other party arising out of or relating to this Agreement, including, without limitation, to interpret or enforce any provision of this Agreement, shall bring the legal action or proceeding only in the state or federal courts located in Denver, Colorado. Each party consents and submits to the exclusive jurisdiction and venue of those courts for all legal actions and proceedings arising out of or relating to this Agreement. Each party irrevocably waives, to the fullest extent permitted by applicable law, (a) any objection that party may have to the laying of venue of any such proceeding or legal action brought in those courts and (b) any defense of inconvenient forum for the maintenance of a proceeding or legal action brought in those courts. Each of the parties consents to process being served by any party to this Agreement in any action or legal proceeding by the delivery of a copy thereof in accordance with the notice provisions in this Agreement.

54.9   Remedies. Except as provided in in this Agreement, the parties' rights and remedies under the Agreement are cumulative. Customer acknowledges that the Software contains valuable trade secrets and proprietary information of LogRhythm, that any actual or threatened breach of Section 2 or 10 by Customer will constitute immediate, irreparable harm to LogRhythm for which monetary damages would be an inadequate remedy, and that injunctive relief is an appropriate remedy for such breach. In any action or other proceeding brought under this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party, and the non-prevailing party shall pay the prevailing party's reasonable attorneys' fees, costs, and expenses, in each of the foregoing cases, that are incurred in connection with such action, arbitration, or proceeding.

54.10   Waivers. No delay or failure of a party to exercise any of its rights, powers or remedies or to require satisfaction of a condition under this Agreement will impair any such right, power, remedy, or condition, nor will any delay or omission be construed to be a waiver of any breach, default or noncompliance under this Agreement. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of the same provision on any other occasion. To be effective, a waiver must be in writing signed by the party granting the waiver, and will be effective only to the extent specifically set forth in such writing.

54.11   Third Party Software. Certain Third-Party Software may be provided with the Products or used in the Cloud Services that is subject to the accompanying license(s), if any, of its respective owner(s). To the extent portions of the Products or Cloud Services are subject to open source licenses obligating LogRhythm to make the source code for such portions publicly available (such as the GNU General Public License ("GPL") or the GNU Library General Public License ("LGPL")), LogRhythm will make such source code portions (including LogRhythm modifications, as appropriate) available upon request for a period of up to three (3) years from the date of distribution. Such request can be made in writing to 4780

Pearl East Circle, Boulder, CO 80301: Attn: Legal Department. Customer may obtain a copy of the GPL at http://www.gnu.org/licenses/gpl.html, and a copy of the LGPL at http://www.gnu.org/licenses/lgpl.html. Subject to the terms of any applicable open source license(s), Third Party Software is licensed solely for use as embedded or integrated with the Product or Cloud Service.

54.12   Severability. If a provision of this Agreement is unenforceable, invalid, or illegal, then the intent of the parties is that (a) the validity, legality, and enforceability of the remaining provisions of the Agreement are not affected or impacted in any way and the remainder of this Agreement is enforceable between the parties, and (b) the unenforceable, invalid, or illegal provision will be modified and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law.

54.13   Construction. The headings of sections of this Agreement are for convenience and are not to be used in interpreting this Agreement. As used in this Agreement, the word "including" means "including but not limited to."

54.14   Counterparts. The parties may execute the Agreement in several counterparts, each of which will constitute an original and all of which, when taken together, will constitute one agreement.

54.15   Entire Agreement. This Agreement, together with all addenda, exhibits, attachments, Orders and Statements of Work made hereunder, constitutes the final agreement between the parties and is the complete and exclusive expression of the parties' agreement to the matters contained in the Agreement. The Agreement supersedes and merges all prior and contemporaneous understandings, agreements or representations by or among the parties, written or oral, that may have related in any way to the subject matter hereof. This Agreement may be amended only by a written instrument signed by each of the parties. Customer may issue a purchase order to LogRhythm to confirm the Order, but no terms of any purchase order or similar document submitted by Customer (whether additional or contradictory) shall apply to this Agreement and all such terms are hereby rejected. Unless otherwise specified in a future Order (which must be signed by both parties), and services, this Agreement governs all future transactions for LogRhythm products between the parties.