SAN BERNARDINO COUNTY

Contract Number
_____

SAP Number
_____

Department of Public Health

Department Contract Representative	Michael Shin, Contract Analyst
Telephone Number	(909) 386 - 8146
Contractor	LogRhythm, Inc.
Contractor Representative	Seanna Powers
Telephone Number	(866) 384 - 0713
Contract Term	December 7, 2021 – December 6, 2026
Original Contract Amount	Non-Financial
Amendment Amount	$0
Total Contract Amount	Non-Financial
Cost Center	

Briefly describe the general nature of the contract: Non-financial End User License with LogRhythm, Inc., pertaining to the license, maintenance, and support of LogRhythm software used by the Department of Public Health (DPH) to examine activity in information systems containing or using electronic Protected Health Information (ePHI), in accordance with the Health Insurance Portability and Accountability Act (HIPAA) for the period of December 7, 2021 through December 6, 2026.

FOR COUNTY USE ONLY

Approved as to Legal Form	Reviewed for Contract Compliance	Reviewed/Approved by Department
►	►	►
Adam Ebright, Deputy County Counsel	Becky Giroux, HS Contracts Manager	Joshua Dugas, Director
Date _____	Date _____	Date _____

Non-Standard Contract Coversheet

Revised 3/14/19

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 Hardware and Software installed on that Hardware.

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

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

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

1.6 "**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.

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

1.8 "**Effective Date**" means the date the Order was signed by LogRhythm or, if there is no signed Order, the date the Order was accepted by LogRhythm.

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

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

1.11 "**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 part of the world.

1.12 "**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.

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

1.14 "**Product(s)**" means the Software, Appliance and/or Hardware.

1.15 "**Protected System**" means the network attached device generating network traffic.

1.16 "**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.

1.17 "**Subscription**" means a term license right to use the Software the duration which is specified in the applicable Order.

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

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

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

1.21 "**User**" means individuals or a unique entry in Customer's directory of record for Customer's 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 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 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 by LogRhythm 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; (d) User, as defined above, is based on Customer's identity directory of record for its User count at the inception of the Order; or (e) A Protected System, as defined above, includes a network attached device generating network traffic. Examples include but are not limited to servers, workstations, infrastructure devices, virtual systems and other equipment that protects and monitors network traffic using analytics and optional response to identify and remediate threats.

2.3 Affiliate Usage. Customer may utilize this Software on behalf of Customer Affiliates, provided Customer's Affiliates are included in the appropriate license metrics count. If Customer's Affiliates are not included in the license metric count, 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 this Agreement, 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, the "System Files"), used by an Appliance must reside on either the Appliance or an external storage device. 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 providing notice to, and obtaining consents from, individuals as required by applicable law.

3. CLOUD AI SERVICES. If Customer orders and pays for Cloud AI Services from LogRhythm, the terms and conditions set forth in the Cloud AI Services Addendum located on the LogRhythm website at https://gallery.logrhythm.com/terms-and-conditions/addendums/LogRhythm-Cloud-AI-Services-Addendum-3-2021.pdf and incorporated herein or attached to this Agreement shall apply to such Cloud AI 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 Procurement Addendum located on the LogRhythm website at https://gallery.logrhythm.com/terms-and-conditions/addendums/LogRhythm-Hardware-Procurement-Addendum-3-2021.pdf and incorporated herein or attached to this Agreement shall apply to such Hardware purchases.

5. EVALUATION PRODUCTS. Notwithstanding anything to the contrary contained in 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 ("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.**

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-3-2021.pdf and incorporated herein or attached to this Agreement. The initial Support Services term for Perpetual Software licenses and/or Hardware or an Appliance is one year beginning on the Effective Date unless otherwise specified in the Order ("Initial Support Term"). Thereafter, Support Services for Perpetual licenses and/or Hardware or an Appliance 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 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. LogRhythm may increase Support Services Fees for Perpetual licenses, Hardware and/or an Appliance 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 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-3-2021.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.

6.3 Training. Subject to payment of any 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 Effective 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 this 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 this 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 Product. LogRhythm may also audit or appoint an independent audit firm selected by LogRhythm to audit Customer's records relating to Customer's use of the Product pursuant to this Agreement to verify that Customer has complied with the terms of this Agreement and to verify Customer's compliance with the licensed Product. Any audit shall be conducted no more than once in any period of twelve consecutive months during Customer's normal business hours and upon at least fifteen 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 five percent 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 a period of ninety (90) days after the Effective Date ("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 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 Services Fees actually paid for the defective Product, in which case Customer's right to use the Product shall terminate.

8.2 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.

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 the Software infringes or misappropriates such third party's Intellectual Property Rights (each, a "Claim"), and LogRhythm will indemnify Customer from any damages, reasonable 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, assists in such defense; and (e) wherever and whenever possible takes all reasonable steps to mitigate its losses that are the subject of the Claim.

9.2 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 this 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 Effective Date.

9.3 Exclusions. Notwithstanding the foregoing, LogRhythm shall have no obligation under this Section 9 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.

10. 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.

11. CONFIDENTIALITY.

11.1   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.

11.2   Protection of Information. Recipient shall not use any Information of Discloser for any purpose not expressly permitted by this 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 this 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.

11.3   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 this 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.

11.4   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.

12. TERM AND TERMINATION.

12.1   Term. The "Term" of a Perpetual license continues until terminated as provided in Section 12.2. The "Term" of a Subscription Term Agreement expires at the end of the Subscription specified in the applicable Order unless the parties enter into a new Subscription.

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

12.3   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.

12.4   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 this 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 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.

13.2 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.

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 this 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. If consent to assign the Agreement is approved by LogRhythm, Customer, may be required to acquire additional licenses to remain compliant with the number of licenses granted to Customer. 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 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.

13.6 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 13.6 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.

13.7 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.

13.8 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.

13.9 Remedies. Except as provided in in this Agreement, the parties' rights and remedies under this Agreement are cumulative. Customer acknowledges that the Software and Cloud Services contain valuable trade secrets and proprietary information of LogRhythm, that any actual or threatened breach of Section 2 or 11 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, arbitration 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.

13.10 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.

13.11   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 Services.

13.12   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 this 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.

13.13   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."

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

13.15   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. Customer may order more Products under this Agreement by executing the LogRhythm or Authorized Reseller's Order. All Orders by Customer are non-cancellable. This 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.

This Contract may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Contract. The parties shall be entitled to sign and transmit an electronic signature of this Contract (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Contract upon request.

SAN BERNARDINO COUNTY

►
_____
Curt Hagman, Chairman, Board of Supervisors

Dated: _____
SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

Lynna Monell
Clerk of the Board of Supervisors
San Bernardino County

By _____
Deputy

LOGRHYTHM, INC.
_____
(Print or type name of corporation, company, contractor, etc.)

By ►
_____
(Authorized signature - sign in blue ink)

Name _____ Barry Capoot _____
(Print or type name of person signing contract)

Title _____ Chief Financial Officer _____
(Print or Type)

Dated: _____

Address _____ 4780 Pearl East Circle _____
_____ Boulder, CO 80301 _____