

END USER LICENSE AND SUPPORT AGREEMENT

PLEASE READ THIS END USER LICENSE AND SUPPORT AGREEMENT (“**EULA**”) CAREFULLY. THIS EULA IS A LEGAL AGREEMENT BETWEEN THE **CUSTOMER** (AND/OR THE “**END USER**” AS DEFINED BELOW) AND **XS MATRIX GLOBAL CO.** („**XS MATRIX**”) FOR SOFTWARE PRODUCT “**THEFENCE**” MANUFACTURED BY XS MATRIX (THE “**SOFTWARE**” AS DEFINED BELOW) ACCOMPANIED BY THIS EULA. BY INSTALLING, COPYING OR USING THE SOFTWARE, YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS EULA.

1 DEFINITIONS AND INTERPRETATION

1.1 Capitalized Terms used throughout this EULA shall have the meaning ascribed to them in this chapter.

“**Ancillary Services**” mean the support services as set forth and defined in this EULA;

“**Backup Server**” means the Customer’s backup server(s) or data center(s) where the Software and the Software Data is copied for backup purposes;

“**Backup**” means a full and identical copy of the Software and the Software Data as a whole, created for the sole purpose of preventing material data loss;

“**Customer**” means a company, corporation, organization, or other type of legal entity whatsoever that have entered into this EULA with XS Matrix regarding the use of the Software;

“**Customer-Made Supplementary Rules**” any addition or supplement to the Rules as created by the Customer;

“**End User**” means an individual being an employee, contractor, or agent of the Customer, or otherwise carrying out any kind of work activities for the benefit of the Customer on the basis of any kind of legal agreement between the End User and the Customer (including system operators and/or administrators and IT staff members as well), always acting on behalf of the Customer regardless of the termination of their engagement;

“**EULA**” means this End User License and Support Agreement;

“**Examined System**” means an enterprise resource planning or business management software or software system used by the Customer;

“**License**” means the time limited license related to the Software granted hereunder, defined in Clauses 2.2.1 and 2.2.2;

“**Licensed Term**” means the term or time period for which the License is granted hereunder, as expressly specified in this EULA;

“**Main Server**” means the Customer’s main server(s) where the Software is installed for the purposes of running and using;

“**Permissions Database**” means the database of privileged and conflicting permissions as created by the Software on the basis of the Rules and/or Customer-Made Supplementary Rules;

“**Permitted Purposes**” means the support services set forth in this EULA, for which the Customer purchased the Software, and which limits the scope of purposes for which the Customer is granted the License;

“**Rules**” shall mean the privileged access and conflict of interest rules and/or policy that (a) is supplied by XS Matrix as built in the Software, and used by the Software to perform its main function and (b) forms and integral and inseparable part of the Software;

“**Software Codes**” mean the source code, object code, bytecode and machine code of Software, altogether;

“**Software Data**” means any data or information, dataset, set of information, or file(s) whatsoever created by, or during the operation of, the Software or otherwise necessary for the proper operation of the Software;

“**Software**” means the TheFence software and SaaS products manufactured by XS Matrix that is accompanied by this EULA;

list of products:

TheFence IDM Smart – Identity, Access Request and Lifecycle Management

TheFence DAPP – Dynamic Access Profile Packaging

TheFence UAR Plus – User Access Review

TheFence ARM – Access Risk Management

“**Subscription Licensing**” means a payment and licensing model, as specified in this EULA, under which the Customer may be granted a License for a limited period of time and under which all fees payable are considered as operational expenses;

“**Website**” means XS Matrix’s website available at www.thefence.net;

“**XS Matrix**” means XS MATRIX GLOBAL CO. (a company incorporated in the United States of America, State of Delaware, registered seat: 108 Lakeland Avenue, Delaware 19901, USA; registered under reg. no.: 6383902,), a company incorporated and organized in the State of Delaware, USA, operated under the laws of the State of Delaware, USA, as well as any successor thereof (regardless of whether the successor takes and assumes all rights and obligations and burdens collectively or only some of them individually, and regardless of the legal transaction through which the successor takes these rights / obligations / burdens, e.g. merger, acquisition, demerger, contract, agreement whatsoever);

1.2 For the avoidance of doubt, an End User shall always be considered as acting on behalf of the Customer and as representing the Customer at all times.

2 LICENSE

2.1 The Software is licensed (not sold) to the Customer as of the regulations of the present EULA.

2.2 Scope of License

2.2.1 Except otherwise provided in this EULA, so long as the Customer purchased the Software in a Subscription Licensing or Limited Licensing model, the Customer is granted a non-exclusive, non-transferable, non-assignable, non-sublicensable, revocable limited License for the Licensed Term to use the Software in the manner and for the Permitted Purposes described in this EULA but in any case solely for the benefit of the Customer, subject to the terms and conditions of this EULA.

- 2.2.2 Except otherwise provided in this EULA, so long as the Customer purchased the Software in a Perpetual Licensing model, the Customer is granted a perpetual, non-exclusive, non-transferable, non-assignable, non-sublicensable, revocable limited License to use the Software in the manner and for the Permitted Purposes described in this EULA
- 2.2.3 but in any case solely for the benefit of the Customer, subject to the terms and conditions of this EULA.
- 2.2.4 The License provided under this EULA is contingent upon the timely payment of all applicable fees (including, without limitation, upfront or recurring license fees, subscription fees, service fees, maintenance fees or any other fees whatsoever) provided for in this EULA.

3 OWNERSHIP

- 3.1 The Software (always including the Rules) is owned by XS Matrix. To the maximum extent permitted by applicable laws, XS Matrix reserves all rights to the Software not expressly granted hereunder and to any reproduction of the Software including its Rules, documentation, logos, trademarks, icons and interface in whole or in part.
- 3.2 XS Matrix shall retain to own any and all right, title and interest, including without limitation, all intellectual property rights, in and to (1) the Software and (2) any suggestions, ideas, enhancement requests, feedback, recommendations or other information relating to the Software provided by the End User, the Customer or any other party as well as (3) any data, information, dataset, database, files, configuration, settings, Rules provided by XS Matrix or any kind of similar material, product or data created by, or during the operation of, the Software. Any copy, modification, revision, enhancement, adaptation, translation, or derivative work of, or created from, the Software shall be owned solely and exclusively by XS Matrix, as shall any and all patent rights, copyrights, trade secret rights, trademark rights, and all other proprietary rights, worldwide therein and thereto. The End User and the Customer hereby assign to XS Matrix any and all of their rights, title or interests that they might have or obtain in the Software or any modification to, or derivative work, of the Software. Neither the End User nor the Customer shall remove, or authorize or permit any third party to remove, any proprietary rights legend from the Software.
- 3.3 The materials within the Software are copyrighted by XS Matrix. Any use of these materials is strictly prohibited unless explicitly permitted by XS Matrix in writing prior to such use.
- 3.4 Notwithstanding the provisions set forth in this chapter, any Customer-made addition or supplement to the Rules (the "Customer-Made Supplementary Rules") will not be resold by XS Matrix and will not form an integral part of the Rules unless expressly authorized by the Customer. The Customer may wish to keep the Customer-Made Supplementary Rules as confidential; however, in such cases the Customer shall so notify XS Matrix beforehand and must agree and accept that these Customer-Made Supplementary Rules will and shall, in certain cases, be accessed and learnt by, or revealed to, XS Matrix for maintenance and support purposes and/or to provide the Ancillary Services.

4 USE OF THE SOFTWARE

4.1 Install and Backup

- 4.1.1 The Customer may download and install one copy of the Software to the Customer's Main Server.
- 4.1.2 The Customer may create Backup of the installed Software and the Software Data to up to three of the Customer's Backup Servers. In case the Customer's Backup Servers are located at more than three different geographical locations, the Customer may create Backup of the installed Software and the Software Data to more than three of the Customer's Backup

Servers, however, the number of these Backups may not exceed, under any circumstances, the number of the different geographical locations of the Customer's Backup Servers.

- 4.1.3 The use of any Backup is strictly limited to backup and restore purposes. No one may use any Backup for the purposes of normal, regular and/or operational use or utilization of the Software, either for the benefit of the Customer or for that of third parties.
- 4.1.4 If a Backup is used to restore a crashed, damaged or otherwise faulty instance of the Software and/or the Software Data, the Backup must entirely replace the Software and/or the Software Data on the Main Server under all circumstances, ensuring that there is only one instance of the Software and/or the Software Data on the Main Server and there are no other instance or copy of the Software and/or the Software Data anywhere else, apart from the Backups(s) permitted hereunder.
- 4.1.5 Notwithstanding anything to the contrary, so long as the Customer purchased the Software for risk assessment of permissions, the Software will be installed and run on a computer elected by XS Matrix, and any use of the Software shall only be carried out by XS Matrix, and no Backup may be created on any server, computer, or data carrier of the Customer.

4.2 Operational Use of the Software

- 4.2.1 Based on the License, the End User may run and use the authorized copy of the Software as installed on the Main Server, in accordance with this EULA, subject to the terms and conditions set forth herein below.
- 4.2.2 So long as the Customer purchased the Software for risk assessment of permissions, the Software may be run and be used solely for the purposes of risk assessment of permissions.
- 4.2.3 So long as the Customer purchased Software for monitoring and risk assessment of permissions, the End User may run and use the Software solely for the purposes of monitoring and risk assessment of permissions.
- 4.2.4 So long as the Customer purchased Software for review of roles, monitoring and risk assessment of permissions, the End User may run and use the Software solely for the purposes of review of roles, monitoring and risk assessment of permissions.
- 4.2.5 The purposes set forth within this section of this EULA shall always be interpreted and considered in such a manner to include any use for the said purposes only if it is carried out solely for the benefit of the Customer. Nothing in this EULA may be interpreted or considered, in any case, to include any kind of use for the benefit of third parties or to allow the provision of any risk assessment / monitoring / review of roles service to third parties by the End User or the Customer.
- 4.2.6 The Customer may amend the Rules to the extent such an amendment is absolutely necessary and suitable to make a better and more appropriate use of the Software by the Customer, solely for the Permitted Purposes and solely for the benefit of the Customer.
- 4.2.7 Each and every End User is obligated to use their own user account to log in for identification purposes when using the Software. No one may, under any circumstance, use another End User's user account.

4.3 Restrictions

- 4.3.1 Without prejudice to section 4.1 of this EULA, both the Customer and all of its End Users are strictly prohibited from copying, duplicating, multiplying, producing, reproducing, replicating whatsoever, or otherwise making another instance or counterpart of, the Software or any part thereof (including, without limitation, any one of the Software Codes and the working algorithm).

- 4.3.2 Both the Customer and all of its End Users are strictly prohibited from selling, reselling, distributing, putting on the market, letting, or otherwise making available to third parties whatsoever the Software or any part thereof (including, without limitation, any one of the Software Codes and the working algorithm).
- 4.3.3 Without prejudice to clause 4.2.6, both the Customer and all of its End Users are strictly prohibited from altering, amending, modifying, rearranging, recoding, re-engineering, restructuring, tampering with or otherwise changing whatsoever the Software or any part thereof (including, without limitation, any one of the Software Codes and the working algorithm).
- 4.3.4 Both the Customer and all of its End Users are strictly prohibited from reverse engineering, back engineering, reverse code engineering or otherwise making any attempt to reveal/learn or carrying out any action with the purpose/result of revealing/learning, the Software, or any part thereof (including, without limitation, any one of the Software Codes and the working algorithm).
- 4.3.5 Both the Customer and all of its End Users are strictly prohibited from
- (i) extracting or exporting, or
 - (ii) using without the Software, or for providing services to third parties,
- any of the following:
- (i) the Rules or a part thereof;
 - (ii) the Permissions Database or a part thereof;
 - (iii) any database, configuration, settings or any similar information or set of information or a part thereof that has been created by, during the operation of, or for use in, the Software, except the Customer-Made Supplementary Rules.
- 4.3.6 Both the Customer and all of its End Users are strictly prohibited from using the Software or any part thereof for examining more users than the maximum number of users set forth in this EULA, or for examining more / other Examined Systems than the maximum number of / the type of Examined Systems.
- 4.3.7 Both the Customer and all of its End Users are strictly prohibited from modifying, changing, altering, deleting or otherwise tampering with any log files containing any information regarding any access to the Software (e.g. time of access, the accessing End User etc.).

5 TERM AND TERMINATION

5.1 Subscription Licensing / Limited Licensing

- 5.1.1 Subject to clause 2.2.1, so long as the Customer purchased the Software in a Subscription Licensing or Limited Licensing model, the License is provided for a fixed duration (i.e., the Licensed Term).
- 5.1.2 The License automatically terminates at the end of the last day of the Licensed Term unless the License is renewed.
- 5.1.3 The License automatically terminates immediately if this EULA terminates, or is terminated, for any reason.
- 5.1.4 XS Matrix may unilaterally terminate the License effective immediately, by sending a notice of termination to the Customer, if the Customer or any of its End Users breaches this EULA.

5.1.5 The License automatically terminates immediately when the Customer ceases to exist regardless of whether or not the Customer has a legal successor.

5.1.6 In case the License terminates, or is terminated, the Customer and all of its End Users shall immediately discontinue any use of the Software, and permanently delete and uninstall the Software and any XS Matrix owned material from all servers (including the Main Server and the Backup Servers), computers and data carriers of the Customer.

5.2 **Perpetual Licensing**

5.2.1 Subject to clause 2.2.2, so long as the Customer purchased the Software in a Perpetual Licensing model, the License is provided for an indefinite duration.

5.2.2 The License automatically and immediately terminates if this EULA terminates, or is terminated, for any reason.

5.2.3 Notwithstanding any other provision in this EULA, XS Matrix may unilaterally terminate the License effective immediately, by sending a notice of termination to the Customer, if the Customer or any of its End Users breaches this EULA.

5.2.4 The License automatically terminates immediately when the Customer ceases to exist regardless of whether or not the Customer has a legal successor.

5.2.5 In case the License terminates, or is terminated, the Customer and all of its End Users shall immediately discontinue any use of the Software, and permanently delete and uninstall the Software and any XS Matrix owned material from all servers (including the Main Server and the Backup Servers), computers and data carriers of the Customer.

6 **AMENDMENTS**

6.1 **Material amendments**

6.1.1 This EULA may be amended only in writing, by mutual agreement by and between XS Matrix and Customer if the proposed amendment materially changes the terms and conditions of using the Software in a way resulting in the limitation of the rights of the Customer and its End Users.

6.2 **Non-material amendments**

6.2.1 XS Matrix may unilaterally amend this EULA, by sending a notice to the Customer via any appropriate way (e.g. via e-mail or through a pop-up window in the Software) if the proposed amendment does not fall under the scope of clause 6.1.1.

7 **WARRANTY / REMEDIES / LIABILITY**

7.1 **Warranty of title**

7.1.1 XS Matrix warrants that the License is lawfully provided and any use of the Software by the Customer in accordance with the provisions of this EULA qualifies as lawful activity. XS Matrix further warrants that the Software is free from any and all rights, claims, and actions of third parties, and of any other encumbrances. XS Matrix is liable towards the Customer for any breaches of these warranties within the limitations set forth in Clause 7.3.1.

7.2 **Limited Warranty**

7.2.1 XS Matrix warrants that the unmodified Software will perform substantially in accordance with the Service Agreement for a period of thirty (30) days from the date of first download. Any supplements or updates to the Software, including, without limitation, any patches or fixes

provided after the expiration of the thirty-day Limited Warranty period are not covered by any warranty or condition, express, implied or statutory.

7.2.2 This Limited Warranty is void if failure of the Software has resulted from accident, abuse, misapplication, abnormal use or a malicious code / malware.

7.2.3 XS Matrix does not warrant that the Software will be uninterrupted or error-free during the Licensed Term.

7.3 **Limitation of Remedies**

7.3.1 XS Matrix's entire liability and the exclusive remedy for any breach of this Limited Warranty or for any other breach of this EULA or for any other liability relating to the Software shall be, at XS Matrix's option (a) the return up to 50% of the up-front fees paid (if any) for the Software, or (b) the repair or replacement of the Software if it does not meet the Limited Warranty provided for in clause 7.2.1.

7.3.2 The remedy elected by XS Matrix is provided free of charge, except that the Customer shall bear any expenses incurred on the side of the Customer and/or its End Users. Any replacement Software will be warranted for the remainder of the original warranty period or thirty (30) days, whichever is longer, and XS Matrix will use commercially reasonable efforts to provide the remedy within a commercially reasonable time if the Customer and its End Users comply with XS Matrix's warranty remedy procedures.

7.4 **Disclaimer of Warranties**

7.4.1 The Limited Warranty that appears above is the only express warranty made and is provided in lieu of any other express warranties or similar obligations (if any) created by any advertising, documentation, packaging, or other communications. Except for the Limited Warranty and to the maximum extent permitted by applicable law, XS Matrix provides the Software and the Ancillary Services (if any) "as is" and "with all faults", and hereby disclaims all other warranties and conditions, whether express, implied or statutory, including, but not limited to, implied warranties, duties or conditions of merchantability, of fitness for a particular purpose, of reliability or availability, of accuracy or completeness of responses, of results, of workmanlike effort, of freedom from malicious code or malware (but XS Matrix uses reasonable efforts to keep the Software free from malicious codes or malware), all with regard to the Software, and the provision of, or failure to provide, the Ancillary Services or other services, information, and related content, or otherwise arising out of the use of the Software.

7.5 **Limitation of Liabilities**

7.5.1 XS Matrix shall not be liable for any indirect or consequential damages, including without limitation loss of income, loss of business profits or contracts, business interruption, loss of information, loss of opportunity, goodwill, or reputation.

7.5.2 XS Matrix is not liable for the loss of, damage to or corruption of data, provided that the problem, incident, or malfunction causing the loss of, damage to or corruption of data results from matters, events and circumstances which are not within the control of or attributable to XS Matrix. Problems, incidents, or malfunctions outside XS Matrix's control shall include, but not limited to

- (a) problems with any external systems, hardware configuration or third-party software used by the Customer and/or its End Users;
- (b) the inoperability and any hardware or software problem emerging from the modification (including any update/upgrade), shutting down or restart of the Examined System;
- (c) erroneous operation of applications, hardware configuration, or any external systems of the Customer (or otherwise used by the Customer and/or its End Users);

- (d) shutting down
 - (e) or inoperability of the Software due to unpredictable events, operational failures, change of settings, or errors emerging from security events;
 - (f) failures, delays, outages caused by third parties, such as internet services, telecommunication providers, post and shipment services, etc.
- 7.5.3 The total liability of XS Matrix shall not, under any circumstances, exceed a sum equal to up to 30% any fees or moneys already paid by the Customer to XS Matrix under this EULA.

8 NOTICES

- 8.1 In case this EULA, or any applicable legal provision requires a notice or statement whatsoever ("**Notice**") to be made in writing, the Notice shall be drafted in English and delivered
- (i) if the sender is the Customer and/or an End User of the Customer, to XS Matrix via e-mail, registered mail or courier to the respective address as stated on the Website at the time of sending the Notice;
 - (ii) if the sender is XS Matrix, to the Customer via e-mail, registered mail, or courier to the respective address of the Customer.
- 8.2 In case the address of the Customer as specified in this EULA changes, the Customer is obligated to inform XS Matrix no later than two (2) business days prior to such change. After so informing XS Matrix, the new address will be the "address of the Customer as specified in the Service Agreement" within meaning of this chapter.

9 CONFIDENTIALITY

- 9.1 During the existence of the License, the Customer and the End User shall keep confidential all, and shall not use for its own purposes (other than implementation of this agreement) nor without the prior written consent of XS Matrix disclose to any third party (except its professional advisors or as may be required by any law or any legal or regulatory authority) any information of a confidential nature (including, without limitation, trade secrets and information of commercial value) which may become known to the Customer or the End User from XS Matrix and which relates to XS Matrix or any of its affiliates, unless that information is public knowledge or already known to the Customer at the time of disclosure, or subsequently becomes public knowledge other than by breach of the EULA, or subsequently comes lawfully into the possession of the Customer from a third party.
- 9.2 Provisions regarding confidential information, including but not limited to rules in this section survive the termination of the License, regardless the reason of termination.

10 SUCCESSION

- 10.1 The Customer is not entitled, under any circumstance, to assign, transfer or convey to a third party this EULA, the License or any rights or obligations (either collectively, or any part of them individually) of the Customer or the End User hereunder, for any reason or on any grounds, either by agreement or by merger, demerger, reorganization, or restructuring.
- 10.2 XS Matrix may, at any time, assign, transfer or convey this EULA, and XS Matrix's rights and obligations hereunder (either collectively, or any one or part of them, individually) to a third party, without the need of obtaining any kind of prior permission, consent, or approval whatsoever from the Customer. For the avoidance of doubt, the Customer hereby grants its prior consent to any such assignment or transfer.

11 MISCELLANEOUS PROVISIONS

- 11.1 This EULA is drafted English language, and any modification is valid solely in written form, in the English language.
- 11.2 This EULA, and any dispute arising out of or in connection with the EULA or its subject matter (including, without limitation, its breach, termination, validity, or interpretation) shall be governed by, and construed in accordance with the laws of the State of Delaware, USA.
- 11.3 For any dispute arising from or in connection with this EULA, so especially for its breach, termination, validity or interpretation, the competent courts of the State of Delaware, USA shall have exclusive jurisdiction, and any court ruling, order, judgment, or award rendered or adopted by courts of another country shall be null, void and unenforceable.