MATRIX42 End User License Agreement

IMPORTANT: PLEASE READ THESE TERMS BEFORE INSTALLING, CONFIGURING AND/OR USING THE MATRIX42 SOFTWARE OR SAAS OFFERINGS. THIS END USER LICENSE AGREEMENT ("EULA") DESCRIBES THE RELATIONSHIP BETWEEN MATRIX42 AND YOU ("CUSTOMER"). THIS EULA WILL BECOME EFFECTIVE ON THE DATE YOU ACCEPT THE TERMS OF THIS EULA. BY INSTALLING, CONFIGURING, AND/OR USING THE SOFTWARE OR SAAS OFFERING IN ANY WAY, YOU REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO BIND THE ENTITY IDENTIFIED AS THE CUSTOMER TO THIS EULA. IF YOU HAVE ENTERED INTO A SEPARATE WRITTEN AGREEMENT WITH MATRIX42 REGARDING THE SOFTWARE OR SAAS OFFERING, THE TERMS OF SUCH SEPARATE AGREEMENT SHALL CONTINUE IN FULL FORCE AND EFFECT, AND THIS EULA SHALL NOT APPLY.

1. Scope of application

1.1 These Terms and Conditions shall only apply to companies in accordance with Section 14 of the German Civil Code (BGB), legal entities under public law, and special funds under public law

1.2 This EULA shall not apply to the procurement of licenses for software produced by third- party companies; this shall be regulated by the conditions of use of the respective copyright owner.

If Fortinet Software (Endpoint Security) is part of the subject of contract, the "Additional Terms and Conditions for EgoSecure Endpoint Security Antivirus from BitDefender" (Annex A) shall also apply.

1.3 For all customers who are domiciled in the following countries and/or order from the respective Matrix42 subsidiaries, the **country-specific EULAs** shall apply exclusively: (a) if the customer concludes the contract with **Firescope Inc**. and/or is domiciled in the **USA**, the "[EULA-USA](#)" (https://www.matrix42.com/en/terms-and-conditions) shall apply; (b) if a Customer concludes the contract with **Matrix42 Helvetia AG** and/or is domiciled in **Switzerland**, the "[EULA-Switzerland](#)" (https://www.matrix42.com/de/agb) shall apply; (c) if a Customer concludes the contract with **Matrix42 Austria GmbH** and/or is domiciled in **Austria**, the "[EULA-Austria](#)" (https://www.matrix42.com/de/agb) shall apply; if a Customer concludes the contract with **Matrix42 S.a.r.l. (France)** and/or is domiciled in **France**, the "[EULA-France](#)" (https://www.matrix42.com/fr/conditions-générales) shall apply.

2. Definitions / LICENCE METRICS

An **"Active Management Record"** in the case of devices includes data for devices or mobile terminals that exist within the Customer's domain and for which a data record exists in Matrix42. It shall be considered active if the Customer cannot prove that the device has been stolen or scrapped, is defective or has otherwise left the Customer's area of disposal. In the case of users, an administration record includes all users recorded in the Matrix42 database. The record shall be deemed active if the Customer cannot prove that a user is no longer working for the Customer in the area of use of the software.

"Concurrent User Licenses" are not personal and can be used by any number of users, but only one user may work with a license at the same time. The license is only required for those users who also work with the management consoles of the Matrix42 applications. End users who contact the Matrix42 applications via the portals, by e-mail or in any other way are not subject to licensing.

"Device" shall be each computing device used to collect, process or display digitalized information that, regardless of who owns the device, exists within the field of activity of the Customer and for which an active administrative record exists in the Matrix42 software. It is irrelevant whether a computing device is operated in a virtualized environment. Examples of devices: server, desktop computers, notebooks, thin clients, tablets, smartphones, handheld devices. Infrastructure devices (such as a network printer, router, bridge or hub), peripheral devices (such as a monitor, desktop printer or mobile storage device) and other IT objects (such as a SIM card or universal asset) shall not be considered computing devices.

"FireScope CI" (Configuration Item) means any network-based component that is monitored and/or managed to deliver an IT service, such as a virtual or host server, computer, laptop, router, switch, storage medium, etc. If FireScope discovers a device, via the device responding with its IP Address and FireScope monitors that device going forward, it is a counted FireScope CI. In the event certain types of FireScope CI's are discovered, but Client chooses to not monitor them, by disabling them; e.g. IP Phones, they are not counted as FireScope CI's against the license. Networked based elements are counted as one FireScope CI for each IP address.

"Named User License" means the licensing to a specific user. By providing a "Named User License", the use of the respective Matrix42 applications and services is limited to a single named user. The legal relationship between the user and the Customer is irrelevant. The license is only required for those users who also work with the management consoles of the Matrix42 applications. End users who contact the Matrix42 applications via the portals, by e-mail or in any other way are not subject to licensing.

"Remote Client" corresponds to one target device for remote control. Every potential target device requires its own remote client license.

One **"Room"** corresponds to one session. In order to run several sessions simultaneously, a corresponding number of rooms is required.

"Server" is a host computer which runs the technology approached to manage.

"System" means a holistic installation consisting of one or more clients and servers with a single holistic purpose.

"User" shall be every natural person, regardless of the legal relationship to the Customer, for which an active administrative record exists in the Matrix42 software.

3. Rights of use to the Matrix42 software

3.1 Following payment in full of the license fee, the Customer shall be granted a single, non-transferable license, unlimited in terms of space, to use the software solely for the intended use and its own business purposes on the number of devices (rights of use per device) specified in the invoice and/or service license or for the number of users (rights of use per user) specified therein in the manner described below. This right shall in the case of a software purchase be unlimited in terms of time and, in the case of a software lease, be limited in terms of time to the contract term specified in the invoice and/or service license.

3.2 The agreed quality of the Software, including the system environment approved by Matrix42, can be found in the user documentation and, in the case of SaaS/Cloud, in the respective applicable service description.

3.3 The Customer shall only receive Software in object code and generally through a downloading option, but, at the Customer's request, also on a data carrier in return for payment. The Customer shall receive user documentation with the Software (for example, in the form of online help). If a cloud service has been

agreed, the Customer shall only have access to the Software and online help in the context of the agreed availability in a Matrix42 or subcontractor data center.

3.4 The Customer shall have researched the key functions of the Software and therefore bear the risk that the Software meets its requirements.

3.5 The Customer may transfer the rights of use to affiliated companies pursuant to § 15ff. Stock Corporation Act (AktG). The Customer shall inform Matrix42 of any use by affiliated companies.

3.6 The Customer shall be allowed to reproduce the software if the respective reproduction is necessary for the use of the software. Necessary reproductions shall include the installation of the program from the original data media into the bulk memory of the hardware, loading the program into the main memory, running the software and the production of a reasonable number of back-up copies.

3.7 A simultaneous use of the software for more than the agreed number of managed devices or users – and/or in the case of a software lease beyond the term of the lease – is an overuse of the software in breach of the contract. In the case of an overuse, the Customer shall notify its contracting partner immediately in writing. The Customer shall pay additional remuneration to Matrix42 for the overuse. The amount of remuneration is based on the MATRIX42 price list valid at the time the overuse becomes known. Additional claims by Matrix42 shall remain unaffected.

3.8 If a Software Lease has been agreed with a Customer, the following shall apply:

3.9 The Customer shall receive a non-exclusive right of use, limited in terms of time, in respect of the Software and the user documentation, in accordance with the user documentation and the following provisions:

3.10 The Customer shall not be permitted to sell, lend, hire out or transfer the Software in any other manner to a third party for profit-making purposes, sublicense the Software or communicate it, or make it available to the public; this shall also include provision for use in the context of an outsourcing or comparable concept.

3.11 Reproductions and workarounds, in particular manipulations, of the Software as well as decompilation shall be prohibited; however, the mandatory provisions in Sections 69 (d) and (e) of the German Copyright Act shall remain unaffected.

3.12 The Customer shall be responsible for compliance with the above provisions by its employees. If unauthorized use of the Software by employees or a third party is suspected, the Customer shall inform Matrix42 without delay and help clear the matter up to the best of its ability. In particular, the Customer shall inform Matrix42 without delay if the number of users changes.

3.13 If a Customer is in culpable breach of any one of the provisions in 3.8 or 3.16, Matrix42 shall be entitled to impose a contractual penalty up to three times the license fee paid by the Customer or, in the case of a Software Lease, up to three times an annual license fee, that, at the Customer's request, is to be assessed for its adequacy by the District Court in Frankfurt am Main, Germany. The assertion of other claims, in particular for failure to act or for compensation, shall remain unaffected. Contractual penalties shall be taken into account in claims for damages.

3.14 The Customer shall be obliged to notify Matrix42 without delay of use of the

Software that is contrary to the terms of the license or other over-utilization of the Software. At Matrix42's request, which shall generally be made once per calendar year, the Customer shall measure the Software used by them using an application provided by Matrix42 and send Matrix42 the result. A check shall be made in the process of whether there is any over-utilization. If Matrix42 has good reason to suspect over-utilization, it may request that use is measured at any time. In the event of over-utilization, the Customer shall be obliged to pay compensation of 150% of the fee for the additional use in accordance with the current Matrix42 price list at the time when the over-utilization comes to light. Other and additional claims by Matrix42 shall remain unaffected.

3.15 If SaaS/Cloud has been agreed with a Customer, the following shall apply:

3.15.1 Matrix42 shall provide the Customer with the software product ("Software") designated and described in Matrix42's service description for use via the Internet ("Service"). The Software runs on computers in a data center used by Matrix42; the Customer shall receive for the term of this contract indicated in the order the non-exclusive and non-transferable right to access the Software via a browser and an Internet connection and to use it for its own business purposes solely in the pursuit of its commercial activities. The Customer shall be responsible for the Internet connection between the Customer and the data center and all the hardware and software required (computer, network connection, browser, etc.). This right of use shall be limited to the number of usage units ordered by the Customer (for example, number of users or managed devices). A transfer of use or provision of services to third parties shall be prohibited. Matrix42 does not provide its services for consumers, but rather solely for the purposes of the commercial activities of the Customer.

3.15.2 In the case of SaaS contracts, Matrix42 shall perform any updates and upgrades to the Software used at its own discretion. The Customer shall not be entitled to the latest Software version.

3.15.3 The Customer may export data it stores in the data center via the cloud service via an export function during the contractual term of a cloud service. The Customer shall no longer have access to these data after the end of the contractual term. Matrix42 shall keep these data for 30 days after the end of the contract and shall provide the Customer with a copy of the data in an industry standard format to be selected by Matrix42 on request during this period against separate payment; Matrix42 shall delete the data after the cited period – or earlier at the Customer's request.

3.15.4 For all Cloud/SaaS products the current Matrix42 Cloud Service description applies.

3.16 If a Software Purchase has been agreed with the Customer, the following shall apply:

The Customer shall not be permitted to sell, lend, hire out or transfer the Software in any other manner to a third party for profit-making purposes, sublicense the Software or communicate it, or make it available to the public; this shall also include provision for use in the context of an outsourcing or comparable concept. The Software may only be sold on to a third party in the form of use in which it was purchased. The Customer shall bind the purchaser in writing to comply with the provisions set out in this Agreement in respect of Matrix42 and shall notify Matrix42 of the purchaser's name and address.

4. Data Backup, Customer Cooperation

4.1   The Customer shall be responsible for ensuring regular and appropriate backup of its data. Matrix42 employees may always assume that all of the Customer's data with which they come into contact are backed up; this shall apply particularly in the context of support.

4.2   Matrix42's obligation to perform shall remain in abeyance while a Customer is in substantial arrears with a contractual obligation. Costs that Matrix42 incurs as a result shall be borne by the Customer. If a Customer delays acceptance or negligently violates any other obligations to cooperate, Matrix42 shall be entitled, without prejudice to other claims, to demand compensation for damages incurred by Matrix42, including any additional expenses.

4.3   In order that a Matrix42 cloud service can be provided according to contract, the Customer shall be obliged to fulfill the Matrix42 requirements in terms of Internet connection, hardware, and other system requirements as per the description of services. The Customer must keep credentials needed to access the cloud service confidential and may not give these to its own employees or third parties, unless this is a requirement under the agreed use of the cloud service.

5. Performance Warranty

For distributed Matrix42 Software Matrix42 warrants that the distributed Matrix42 Software will operate materially in accordance with the applicable specifications set forth within the documentation of the Matrix42 Software or service description of Matrix42.

6. Performance Warranty Remedy

6.1   If Matrix42 has breached either a Warranty set forth in the section entitled: "Performance Warranty", Matrix42 may, in consultation with Customer, either a) use reasonable efforts consistent with industry standards to cure the defect, or b) replace the Matrix42 Software with one that materially complies with the documentation or service description.

6.2   If the defect cannot be cured within a reasonable period of time or if the rectification of the defect or replacement has finally failed, Customer shall have

    a) in case of a Subscription License and/or SaaS the right to reasonably reduce the fees agreed with Matrix42 and/or terminate immediately for cause, if the legal or statutory requirements are met;

    b) in case of a perpetual license, at its option, the right (1) to rescind or reduce the fees agreed in the applicable ordering document and (2) claim damages or to claim reimbursement of futile expenditures. The right to claim damages or futile expenditures shall be subject to the limitations of liability set forth in Section 7.

6.3   In the case of leased Software, strict liability on the part of Matrix42 for defects existing upon conclusion of a contract (Section 536 (a) of the German Civil Code) shall be excluded.

6.4   In case of a Perpetual License the warranty claims stated herein shall become

time-barred within 1 year after delivery of the Matrix42 Software. This shall not apply in the event of willful misconduct, gross negligence or breach of essential contractual obligations within the meaning of section 8.1.

6.5   Warranty remedies are conditioned upon a) any error or defect complained of is reasonably reproducible by Matrix42, b) the breach is not attributable in whole or in part to any non-Matrix42 products or services.

6.6   The warranties set out in this Agreement are the sole warranties provided by Matrix42. Matrix42 or its supplier do not warrant any other warranties, including that Matrix42 Software is error free, whether express or implied, including, without limitation, the implied warranties of satisfactory quality, warranty of fitness for a particular purpose.

6.7   In the case of standard software that has been produced by third parties, and this has been indicated in the quotation, the Customer shall assert any potential claims arising from defects in the first instance against the producers of the software in question. Only where such claims against a producer remain unfulfilled due to circumstances that are not the responsibility of the Customer may the Customer assert a claim arising from defects against Matrix42.

6.8   Claims arising from a defect in the case of software shall only exist if the Customer has installed all the software patches provided by Matrix42 and used the software in the contractually agreed environment in accordance with the service description.

6.9   The Customer may not assign claims arising from defects.

7. Liability

7.1   Matrix42's liability for damages and reimbursement of expenses for slight negligence, in particular due to breach of duties arising from the contractual obligation and due to unauthorized action, shall be excluded, unless Matrix42 has breached an essential contractual obligation, that is, an obligation, the fulfillment of which makes the proper execution of the contract possible (cardinal duty) in the first place, or on compliance with which the Customer may regularly depend. In this case, liability on the part of Matrix42 shall be limited to foreseeable damage that is typical for the contract and should have been expected by Matrix42 when concluding the contract due to circumstances known to Matrix42. Liability on the part of Matrix42 for damages resulting from injury to body, life, or health, for willful intent and gross negligence, for the failure to provide a guaranteed quality, and under the terms of the Product Liability Act shall, however, be unlimited.

7.2   Damage of up to €250,000 per damage event shall be considered as foreseeable and typical for the contract within the meaning of Section 7.1.

7.3   Liability on the part of Matrix42 for loss of profit and other pure financial losses shall be excluded, except in cases of willful intent.

7.4   In the event of a loss of data, liability on the part of Matrix42 shall be limited to the typical recovery expenses that would be incurred through making regular backup copies in accordance with the risk involved. Moreover, Matrix42 shall only be liable provided the Customer has ensured through appropriate data backup measures that the data can be recovered with reasonable effort. This paragraph 7.4 is not applicable for SaaS.

7.5   The aforementioned provisions shall apply accordingly to liability for

compensation for wasted expenditures.

7.6   Matrix42 shall not be liable to the Customer for damages that are incurred as a result of third party companies commissioned by the Customer not providing their service, providing it late or not providing it properly.

11. Technical protective measures

8.1   Matrix42 shall be entitled to take appropriate technical measures to protect against a non-conforming use of the software. It may be necessary to activate a license key before using the software. The use of the Software on an alternate or subsequent configuration of the Customer may not be significantly affected by this.

8.2   The Customer shall be obliged to treat the license key as confidential and store it in a secured location to protect against unauthorized access by third parties. The Customer is not entitled to disclose the license key to third parties during the term of this agreement or after the end of this agreement.

9. Copyright notices

The Customer acknowledges that the software and the user manual are protected by copyright. Copyright notices, serial numbers and other markings used to identify the software must not be removed or altered by the Customer.

10. Transfer of the software to third parties

If the software has been purchased and not leased, the Customer may transfer the software and user manual to third parties temporarily, only if this is part of a service provided by the third party for the Customer and the third party declares its agreement to the continued application of this EULA and the Customer transfers all program copies, including any possible back-up copies made, or destroys the copies not handed over. For the period of the transfer of the software to third party, the Customer shall have no right to use the software. In the case of a software lease, transfer to third parties shall not be permitted.

11. Resale of the software

The software may be resold or given to third parties in the purchased usage type. A resale or transfer shall also be subject to the purchaser expressly consenting to this EULA and the Customer showing evidence to Matrix42, for example, by means of a notarial deed, that it has deleted the software on its servers/computers and transferred all back-up copies to the purchaser.

12. No usage in high security areas

The software is not intended for use or distribution as equipment in high security areas. These includes, but not limited to, nuclear facilities, aviation navigation and communication equipment, direct life support or weapon systems, and in security critical areas where the failure of the software could lead directly or indirectly to death or bodily injury or serious environmental or other physical damage. The Customer shall not use maintenance and support services for these high-risk areas.

13. Export and Import Regulations

The Parties shall comply with the import and export regulations of the countries affected by distribution and use of the Matrix42 Software, in particular the U.S., and shall offer mutual support with procuring documentation such as the necessary end user certificates, etc., free of charge.

14. Final provisions

14.1 The legal relationship between the Customer and Matrix42 shall be subject to substantive German law under exclusion of the United Nations Convention for Contracts for the International Sale of Goods (CISG).

14.2 The place of jurisdiction for all disputes arising from or in connection with the contractual relationship shall be the registered office of Matrix42 or, at Matrix42's choice, the registered office of the Customer.

Annex A

Additional Terms and Conditions for EgoSecure Endpoint Antivirus from BitDefender

In addition to the License Terms and Conditions, these additional terms and conditions govern the use of software from EgoSecure that contains BitDefender-SRL ("BitDefender") code.

1. The end user shall confirm in writing on request that it is using the software for the number of servers agreed by the Parties with the agreed number of copies and the agreed system configuration at the agreed location.

2. Complaints and negotiations regarding BitDefender SRL shall be subject to Romanian law, excluding IPR provisions and the UN Convention on Contracts for the International Sale of Goods (CISG).