

E5 Evaluate is an online software service to create surveys and quizzes for mobile devices, owned and operated by E5 Interactive Ltd, a company registered in England and Wales. registration number 12726984, at International House, 61 Mosley Street, Manchester, United Kingdom, M2 3HZ.

These terms of use (“Terms”) govern all use of or access to the e5evaluate.com website (“the Site”) and all content, services and products available at or through the Site (together “the Service”). The Service is offered subject to your acceptance without modification of and compliant with the Terms and all other operating rules, policies (including, without limitation, our [Privacy Policy](#)) and procedures that may be published from time to time on the Site (collectively, the “Agreement”).

## Acceptance of Terms

By accessing to or using any part of the Service, you agree to become bound by the Agreement. If you do not agree to all the terms of the Agreement, you may not access or use the Service.

## Modification

E5 Evaluate reserves the right to change any part of the Agreement. We advise users to regularly check the Agreement. If you continue to use the Services after We post changes to the Agreement, you are confirming your acceptance of the new Agreement. We will clearly indicate version numbers at the end of the Terms.

## User account

Only persons (individuals or legal entities) who are legally entitled under their own laws to validly enter into contract (or, for minors, who have obtained appropriate permission to do so, and are at least eighteen (18) years old) may become users (“User”). Any account may be used by one person only. You must provide E5 Evaluate with a valid email address and a password for your account. You are responsible for maintaining the security of your account with the Service, and you are fully responsible for all activities that occur under that account. You will immediately notify E5 Evaluate of any unauthorized uses of your account or any other breaches of security. You may not use the Service for any illegal or unauthorized purpose.

Any use of the Service is at the sole risk and liability of the User. E5 Evaluate will not be liable for any acts or omissions by you, including any damages of any kind incurred as a result of such acts or omissions.

Use of the Service provides a User with access to some or more aspects or functionality of the Service. Such access includes a limited, non-transferable, non-exclusive right to access the Service for your own internal purpose. Any other use, or use for data mining, use of spiders, crawlers, bots, etc. is excluded. You may not reverse engineer, decompile or disassemble the Site or the Service, or create derivative works of the Site or the Service (other than through the operation of functionality provided through the Service or Site).

You may cancel or terminate your account at any time, by following the process made available for that purpose on the Website. Cancellation by email or phone will not be considered valid.

E5 Evaluate may terminate any User account, with or without prior notice, when, in the reasonable opinion of E5 Evaluate, such User is in breach of any of the Terms or the

Agreement, or User is in breach of any applicable law, regulation or any third party right, or when User has been declared insolvent or bankrupt (or any similar event in any jurisdiction has occurred). E5 Evaluate is entitled to issue guidelines around correct use of the Service (e.g. in respect of bandwidth usage), and may request compliance with such guidelines in order to keep the User account.

Consequences of termination are:

- User may no longer access the Site or Services, and its username and password will be invalidated.
- User's Content will be deleted from User's account. This may not include deletion of any reproduction thereof by Respondents

Through use of the account, you will interact with end users ("Respondents"). You are responsible for any behaviour, act or omission of Respondents through the Service or the Site.

## Content

Any material, content, information, whether protected by copyright or not ("Content") generated, posted or used by a User on the Site or through use of the Service falls completely under User's liability and control, and is not considered generated by E5 Evaluate .

By making Content available, you represent and warrant that:

- The use of the Content will not infringe any third party rights, including but not limited to Intellectual Property Rights (defined in the Agreement as rights of exclusive or restrictive use, such as patents, designs, models, drawings, copyrights, software rights, database rights, trade marks, services marks, know-how, trade secrets, web domain names, trade names (all whether registered or not, and including any applications thereto) and in general all rights of a same or similar nature, anywhere in the world including all extensions, reversions, revivals and renewals thereof);
- If your employer has Intellectual Property Rights to Content, you have either (i) received permission from your employer to post or make available the Content, or (ii) secured from your employer a waiver as to all rights in or to the Content;
- You have fully complied with any third-party licenses relating to the Content and have done all things necessary to successfully pass through to Respondents any required terms.

You understand that, as a result of the processing and transmission of your Content by the Service, your Content may be transferred unencrypted. E5 Evaluate does not claim ownership over any Content, but by uploading or using such Content, you provide E5 Evaluate an unlimited, royalty-free, fully paid-up, worldwide, assignable, irrevocable and perpetual (for at least the duration of any Intellectual Property Right therein) license to use such Content for the provision of the Service and making available any Content or part of the Service to Respondents. E5 Evaluate will not use the Content for any other purposes (e.g. marketing) than for provisioning the service, unless with your agreement. E5 Evaluate is not responsible for your Content or for its use or effects. By

operating the Service, E5 Evaluate does not represent or imply that it endorses the Content created or shared by Users of the Service, or that it believes such Content to be accurate, useful or non-harmful.

We may, but have no obligation to, remove Content and accounts containing Content that we determine in our sole discretion are unlawful, offensive, threatening, libellous, defamatory, pornographic, obscene or otherwise objectionable, or infringes or is alleged to infringe any party's Intellectual Property Rights or the Agreement.

## Fees and Payment

By selecting a E5 Evaluate Service you agree to pay upfront E5 Evaluate, the one-off, monthly or annual subscription fee indicated and agreed for that service. Payments will be charged on the day you sign up for a Service and will cover the use of that Service for the time period as indicated. Any subsequent charges for increase in pdf report downloads will be charged as per the agreed service schedule.

All fees are net and exclusive of any VAT, or other taxes, levies, or other duties.

E5 Evaluate is entitled to modify its prices. Except if stated otherwise when notice of price change is made, new prices apply as from renewal of the then current term.

Any consultancy, design or training service fees are not refundable.

## Intellectual Property Rights

Any Intellectual Property Rights in the Site or the Service are and remain with E5 Evaluate. The Agreement does not transfer or assign any Intellectual Property Right from E5 Evaluate or its licensors or suppliers to you, and all rights are reserved.

## Trademarks

If you purchase a Service that allows you to brand your surveys with your own trademarks, service marks, logos or other commercial identifiers ("Trademarks"), then you grant E5 Evaluate the necessary royalty-free license to reproduce the Trademarks within the Site or the Service for that purpose.

If you do not purchase a Service that allows you to brand your surveys with your own Trademarks, then you are not entitled to remove the E5 Evaluate Trademarks from the Service. Except as provided through functionality of the Service, you do not acquire any right or license to the Trademarks of E5 Evaluate or its suppliers or licensors.

## Data Protection and Privacy

Anyone who relies on our Services will in most cases disclose certain personal information. The degree of collection and processing of personal data depends of course on the extent to which the User uses our Services.

E5 EVALUATE attaches great importance to privacy of its Users. That is why our Users can be rest assured that E5 EVALUATE takes the utmost care when processing their personal data. E5 EVALUATE guarantees that the processing and collection of personal data will at any time be done in accordance with the applicable privacy legislation, being the *EU Regulation of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation or GDPR)*. E5 EVALUATE has taken appropriate technical measures to protect any personal data from unauthorized disclosure or use.

We kindly refer you to our [Privacy Statement](#) for more information about the purposes for which your personal data are being collected and processed and all information about the guarantees we provide with regard to the protection of your personal data.

Every User is urged to carefully read this document before using our Services.

Users will comply with all applicable data protection laws, and will provide E5 EVALUATE, at User's cost, with all reasonable assistance in this respect.

User shall never:

- Violate or attempt to violate the technical or data security of E5 EVALUATE;
- Go beyond the limitations of use applicable to its account.
- Attempt to probe, scan or test the vulnerability of E5 EVALUATE systems or networks;
- Attempt to interfere with the provision of E5 EVALUATE Services or Site, including but not limited to hacking, introducing virus or malware, denial of service attacks or any other technical act that could or risks to impede E5 EVALUATE 's Site functionality.

## Disclaimer of Warranties

Any Service is provided "as is". E5 Evaluate and its suppliers and licensors hereby disclaim all warranties of any kind, express or implied, including, without limitation, the warranties of merchantability, fitness for a particular purpose and non-infringement. Neither E5 Evaluate nor its suppliers and licensors, makes any warranty that the Service will be error free or that access thereto will be continuous or uninterrupted. You understand that you obtain or use Content or Service at your own discretion and risk. You acknowledge that E5 Evaluate acts as a "mere conduit", and has no obligation to verify in any systematic or other way any Content or use of the Service by another User.

You represent and warrants that you have the necessary rights to any Content used or uploaded, and that such Content will not infringe any third party Intellectual Property Right or other right or interest.

You will indemnify, defend and hold harmless E5 Evaluate and will keep it indemnified for and against any liabilities, claims and expenses, including attorney's fees, that arise from any claim from any third party (including, for the avoidance of doubt, any other User) that any action or omission to act (including but not limited to the posting or offering of any Content), any breach of the Agreement or in general any other act or omission to act by such User or anyone acting on its behalf for use of the Site and Services.

# Limitation of Liability

To the fullest extent permissible under applicable law, E5 Evaluate will have no liability, and any User waives any claim, based on the Site, its performance and functions, the services provided thereon, any Content used, or any transaction, service or functionality transacted or made available through the Site or the Services.

E5 Evaluate will never be liable for any breakdown of the Site, interruption or malfunction of the services provided through the Site, or any other malfunction or technical issues related to the operation of the Site.

E5 Evaluate will never be responsible for any links to third party websites, or any other connection to or interaction with third party materials or functionality.

Users specifically waive any liability of E5 Evaluate for any Content used on the Site or through the Services, or any action or omission from any Respondent.

Under no circumstances will E5 Evaluate be liable for any indirect losses, including any loss of business or loss of profit.

To the extent permitted by applicable law, in any event will E5 Evaluate's liability be limited to the lesser of the total value of monetary value paid by a User during the six months preceding the cause of liability or 10.000 Euros.

# Choice of Law and Location for resolving disputes

You agree that the laws of the England and Wales govern this contract and any claim or dispute that you may have against us, without regard to England and Wales conflict of laws rules, and that the United Nations Convention on Contracts for the International Sale of Goods shall have no applicability. You further agree that any disputes or claims that you may have against us will be resolved by a court located in England and Wales and you agree and submit to the exercise of personal jurisdiction of such courts for the purpose of litigating any such claim or action.

# Miscellaneous

This Agreement constitutes the entire agreement between you and E5 Evaluate concerning your use of the Service and may only be modified by a written amendment signed by an authorized executive of E5 Evaluate, or by the posting by E5 Evaluate of a revised version. If any part of this Agreement is held invalid or unenforceable, that part will be construed to reflect the parties' original intent, and the remaining portions will remain in full force and effect. A waiver by either party of any term or condition of this Agreement or any breach thereof, in any one instance, will not waive such term or condition or any subsequent breach thereof. You may assign your rights under this Agreement to any party that consents to, and agrees to be bound by, its terms and conditions; E5 Evaluate may assign its rights under this Agreement without condition.

This Agreement will be binding upon and will inure to the benefit of the parties, their successors and permitted assigns.