



Evalu8 Website Terms of Use

1 Introduction

- 1.1 These Terms of Use govern your organisation's use of the evalu8 website. Evalu8 Ltd trades as Governance Best Practice and evalu8. By using the website and evalu8, you accept these Terms of Use in full. If you disagree with these Terms of Use or any part of them, you must not use the website or evalu8.
- 1.2 For the purposes of these Terms of Use the following will apply:
- 1.3 "The Website" refers to the evalu8 website www.evalu8online.co.uk. This means the website that is publicly available via the internet and contains information relating to the services, products, client lists and general marketing material of Governance Best Practice and evalu8. The website also contains a restricted website portal for authorised and licensed user access to evalu8.
- 1.4 Access to the evalu8 log in page is through a restricted website portal licence granted by evalu8 under terms stated below in these Terms of Use. The activation of this licence is through the issue of a Username ("User ID") and password ("Password") by evalu8.

2 Evalu8 Resellers and Agents Contract Agreement (Only)

- 2.1 A "Contract Agreement" exists between evalu8 and Resellers and other nominated or appointed Agents. The terms of the Contract Agreement shall be applicable and used in conjunction with these Terms of Use and both shall be binding.

3 Use of the website and evalu8

- 3.1 Unless otherwise stated and subject to clause 5 below, evalu8 own the intellectual property rights in the website and material on the website and evalu8 represent to you that evalu8 are singularly and fully entitled to licence you to use the evalu8 application within the website. Subject to these Terms of Use (and where relevant Contract Agreement), all of these intellectual property rights are reserved.
- 3.2 You may:
 - a. view, download for caching purposes only, and print pages or other content from the website for your own personal use, subject to the restrictions set out below and elsewhere in these Terms of Use.
- 3.3 You must not:
 - a. Republish material from the website (including republication on another website);
 - b. Sell, rent or sub-licence material from the website;
 - c. Show any material from the website in public;

4 Acceptable use

- 4.1 You must not use the website in any way that causes, or may cause, damage to the website or impairment of the availability or accessibility of the website; or in any way which is unlawful, illegal, fraudulent or harmful, or in connection with any unlawful, illegal, fraudulent or harmful purpose or activity.

- 4.2 You must not use the website to copy, store, host, transmit, send, use, publish or distribute any material which consists of (or is linked to) any spyware, computer virus, Trojan horse, worm, keystroke logger, rootkit or other malicious computer software.

5 Restricted access

- 5.1 Access to certain areas of the website, including the product evalu8 is restricted. Evalu8 reserves the right to restrict access to other areas of the website, or indeed the whole website, at our discretion.
- 5.2 If evalu8 provide you with a User ID and Password to enable you to access restricted areas of the website or other content or services, you must ensure that that the user ID and password are kept confidential and are not shared with others not covered by the licence Terms of Use.
- 5.3 Evalu8 may disable your User ID and Password at our sole discretion without notice or explanation if we determine, acting reasonably, that you are in breach of these terms and conditions.

6 User generated content

- 6.1 In these Terms of Use, "your User content" means material (including text, images, audio material, video material and audio-visual material) that you submit to the website, for whatever purpose. Such User content is the property of the User (subject to 6.2 below). Evalu8 will keep your User content strictly confidential and not disclose it to any third party nor will evalu8 otherwise make use of it without your written approval.
- 6.2 An exception to 6.1 will be where all "Appraisals" generated by the User under licence will be the property of evalu8. Appraisals are defined as a series of questions produced by the user under specific headings or categories relevant to your organisations business activity, generic or otherwise, that ultimately form an appraisal/questionnaire/survey.
- 6.3 Your user content must not be illegal or unlawful, must not infringe any third party's legal rights, and must not be capable of giving rise to legal action whether against you or us or a third party (in each case under any applicable law).
- 6.4 You must not submit any user content to the website that is or has ever been the subject of any threatened or actual legal proceedings or other similar complaint.
- 6.5 Notwithstanding our rights under these Terms of Use in relation to User content, evalu8 do not undertake to monitor the submission of such content to, or the publication of such content on, the website.

7 Limited warranties

- 7.1 Whilst evalu8 endeavour to ensure that the information on the website is correct, evalu8 do not warrant its completeness or accuracy; nor do evalu8 commit to ensuring that the website remains available, subject to licence Terms of Use and any Service Level Agreements, or that the material on the website is kept up-to-date.
- 7.2 To the maximum extent permitted by applicable law evalu8 exclude all representations, warranties and conditions relating to the website (other than the representation given in (2) above that evalu8 are entitled to licence you to use the evalu8 application and the website) and the use of the website (including, without limitation, any warranties implied by law of satisfactory quality, fitness for purpose and/or the use of reasonable care and skill)

8 Limitations of liability

- 8.1 Nothing in these Terms of Use (or elsewhere on the website) will exclude or limit our liability for fraud, for death or personal injury caused by our negligence, or for any other liability which cannot be excluded or limited under applicable law.
- 8.2 Subject to this, our liability to you in relation to the use of the website or under or in connection with these Terms of Use, whether in contract, tort (including negligence) or otherwise, will be limited as follows:
- (a) to the extent that the website and the information and services on the website are provided free-of-charge, Evalu8 Ltd will not be liable for any loss or damage of any nature;
 - (b) Evalu8 will not be liable for any consequential, indirect or special loss or damage;
 - (c) Evalu8 will not be liable for any loss of profit, income, revenue, anticipated savings, contracts, business, goodwill, reputation, data, or information;
 - (d) Evalu8 will not be liable for any loss or damage arising out of any event or events beyond our reasonable control;
 - (e) The maximum liability to Evalu8 in relation to any event or series of related events will be limited to £1,000,000

9 Indemnity

- 9.1 You hereby indemnify us and undertake to keep us indemnified against any losses, damages, costs, liabilities and expenses (including without limitation legal expenses and any amounts paid by us to a third party in settlement of a claim or dispute on the advice of our legal advisers) incurred or suffered by us arising out of any breach by you of any provision of these Terms of Use, or arising out of any claim that you have breached any provision of these Terms of Use

10 Breaches of these Terms of Use

- 10.1 Without prejudice to our other rights under these Terms of Use, if you breach these Terms of Use in any way, Evalu8 Ltd may take such action as evalu8 deem appropriate to deal with the breach, including suspending your access to the website and to evalu8, prohibiting you from accessing the website, blocking computers using your IP address from accessing the website, contacting your internet service provider to request that they block your access to the website and/or bringing court proceedings against you.

11 Variation

- 11.1 Evalu8 may revise these Terms of Use from time-to-time. Minor revised Terms of Use will apply to the use of the website and evalu8 from the date of the publication of the revised Terms of Use on the Governance Best Practice website: in the case of material revisions, evalu8 will give you written notice of such changes. Please check this page regularly to ensure you are familiar with the current version.

12 Assignment

- 12.1 We may transfer, sub-contract or otherwise deal with our rights and/or obligations under these Terms of Use without notifying you or obtaining your consent.
- 12.2 You may not transfer, sub-contract or otherwise deal with your rights and/or obligations under these Terms of Use.

13 Severability

- 13.1 If a provision of these Terms of Use is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions will continue in effect. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect.

14 Exclusion of third party rights

- 14.1 These Terms of Use are for the benefit of you and evalu8 and are not intended to benefit any third party or be enforceable by any third party. The exercise of evalu8 and your rights in relation to these Terms of Use is not subject to the consent of any third party.

15 Entire agreement

15.1 These Terms of Use, together with evalu8 privacy policy and evalu8 GDPR Statement, constitute the entire agreement between you and Evalu8 Ltd in relation to your use of the website, and supersede all previous agreements in respect of your use of the website and evalu8.

15.2 By accepting these Terms and Conditions you are consenting to the use of your data in line with evalu8's GDPR statement and privacy policy (appended to these Terms and Conditions).

16 Law and jurisdiction

- 16.1 These Terms of Use will be governed by and construed in accordance with UK law, and any disputes relating to these Terms of Use will be subject to the non-exclusive jurisdiction of the courts located in the United Kingdom.

17 Our details

- 17.1 The full name of our company is Evalu8 Limited trading as Governance Best Practice and evalu8

Evalu8 Ltd is registered in England & Wales under registration number 5040918

- 17.2 Our registered address is Evalu8 Limited, Ground Floor, Nautica House, Waters Meeting Road, Bolton BL1 8SW

You can contact us by email to jcb@governancebestpractice.com or stuart@governancebestpractice.com

Downtime

Downtime does not include (i) problems caused by factors outside of our reasonable control, (ii) problems resulting from any actions or inactions by you or any third party, (iii) problems resulting from your equipment and/or third party equipment not within our sole control, or (iv) network unavailability during scheduled maintenance of our network and/or web servers.

Availability

Evalu8 shall ensure that Availability of the System in any month is not less than 99.75%. Availability for a month shall be calculated following the end of that month using the formula: "Availability" = (OH - D) x 100

Where:

OH = Total Operating Hours of the System during the month, where "Operating Hours" are 00.00 am to 23.59 pm

and

D = Total Downtime during Operating Hours during the month, where "Downtime" means non-availability of one or more of the primary functions of the System but excludes any agreed downtime and emergency or scheduled maintenance. This only includes downtime of the network, hardware, virtualization and base operating system components.

For example: - During one particular month e.g. July there are a total of 744 Operating Hours; if during that month there is Downtime of 2 hours then Availability shall be calculated as follows:-

$$(744 - 2) \times 100 = 99.731182\%$$

Therefore Availability = 99.73%.

Service Level Timescales

In event of a server hardware failure that cannot be fixed, evalu8 guarantees that the hardware will be replaced within one hour of the problem being diagnosed. Hardware is defined as the processor(s), RAM, hard disk(s), motherboard, NIC card and other related hardware included with the server. This guarantee excludes the time required to rebuild a RAID array, SANs and the reload of certain operating systems, processors and applications. Evalu8 will replace any failed component at no cost to the client.



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GDPR STATEMENT

On May 25th 2018 new regulations come into being regarding the treatment of data. Evalu8 Limited hold personal data in the form of names and email addresses; this is necessary for the service to function and the data is provided by the client and stored in the evalu8 online system with their permission. The data is stored in a secure server environment provided by UKFast in the UK.

The lawful bases for this activity is Contract, Consent and Legitimate Interests.

Contract: The client has requested the supply of evalu8 online for the purposes specified by the client.

Consent: The client has given clear consent for Evalu8 Limited to use individuals' names and email addresses as provided by the client for the specific purpose of carrying out board, committee, individual director and stakeholder surveys using the evalu8 online system.

Legitimate interests: Without names and email addresses it would not be possible to carry out an on-line appraisal/survey. This data is necessary to carry out the task.

In line with the principles of handling personal data under GDPR, Evalu8 Limited undertakes that data will be:

- (a) Processed **lawfully, fairly and in a transparent** manner
- (b) Collected for specified, **explicit** and legitimate purposes and not further processed in a manner that is incompatible with those purposes
- (c) Adequate, relevant and limited to what is **necessary** in relation to the purposes for which they are processed
- (d) **Accurate** and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay
- (e) Kept in a form which permits identification of data subjects for **no longer than is necessary** for the purposes for which the personal data are processed
- (f) Processed in a manner that ensures appropriate **security** of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures



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Data Protection – Privacy Policy

Evalu8 places great importance on data security and data protection. Protecting personal rights is integral to our corporate culture and built into our services and products. We respect the safety of your personal data. That is why evalu8 continuously works to improve data security measures to protect you and your privacy.

This data protection statement explains what type of information we record when you use the use evalu8 system, and how we use it.

Collection and use of personal data

Our server temporarily records the following information for system security purposes: the domain name or IP address of the computer requesting access, the access date, the client's file request (file name and URL), the HTTP response code and the website you are visiting from, and the number of bytes transferred over the connection. We may save some information in the form of cookies on your PC. A cookie is a piece of information that a website can send to your browser and save on your system. Cookies do not give us access to your PC or your personal data. Please note that standard browser settings allow the use of cookies. If you do not want to allow the use of cookies, you can disable this option in your browser. We use cookies exclusively to tailor our website to your preferences.

When using evalu8 as an administrator you will be required to add personal information in the form of users' names and email addresses. You will also be required to populate appraisals and have access to potentially confidential data completed by your users. Administrators should follow their own organisation's guidelines regarding their handling of potentially sensitive information. In particular, administrators should take care to log out of the evalu8 system when they are away from their desk. Evalu8 are not responsible for any breach of confidentiality within the organisation.

Personal data collected when visiting evalu8 is only used in accordance with Data Protection Act 1998.

Use and transfer of this personal data

We use your personal data only for the purpose of technical website administration and to meet your wishes and requirements, and solely for the specified purpose.

We only disclose data to official agencies if required by law. Our employees or suppliers are required to maintain strict confidentiality.

Freedom of information

Please send a request in writing to Evalu8 Ltd, Ground Floor, Nautica House, Waters Meeting Road, Bolton, BL1 8SW if you would like to know what personal data (e.g. name, address, etc.) we have stored about you.

Security

To protect your personal data saved by us against unauthorised access and misuse, we have implemented extensive, state-of-the-art technical and organisational measures.

Best Regards
Jane Frier, Director