



SOFTWARE AS A SERVICE AGREEMENT

(Short form fixed term agreement – no services)

Information for the Customer

- EValue Limited of Benyon House, Newbury Business Park, Newbury, Berkshire, RG14 2PZ incorporated under the laws of England and Wales with company number 07382500 (the “**Supplier**” and “**EV**”); and
- the customer who has signed up to receive this service on EV’s website (the “**Customer**”).
- When the Customer has clicked acceptance of these terms on EV’s website, the parties have made a legally binding contract incorporating EV’s terms and conditions and the following documents:
 1. [Schedule 1: Service Level Agreement;](#)
 2. [Schedule 2: Data Protection](#)
 3. [User Terms](#)
 4. **Policies:** For policies and terms relating to software Products refer to <https://www.ev.uk> for:
[Cookie Policy](#)
[Privacy Policy](#)

PRODUCT and TERM

PRODUCT and TERM	
	Scope of Use
Product: Income Risk Questionnaire	Single licence for 1 Authorised User, such user(s) to be the Licensee or an employee of the Licensee.

Term: From the Agreement Commencement Date until the 31 December 2021, when this Licence shall automatically terminate.

1. INTRODUCTION AND INTERPRETATION

Introduction:

A EV is a provider of financial technology products to the financial services sector and has developed Products (as defined below) which are made available by EV for the purposes of providing online pension and/or investing tools.

B For the avoidance of doubt, EV does not sell the Products to the Customer and therefore remains the owner of the Products at all times.

Interpretation: In this Agreement the following words shall have the following meanings:

“Agreement” means these terms and conditions the Schedules and policies listed referred to in the table above on the first page of this Agreement.

“Agreement Commencement Date” means the date that the Agreement Term starts, being the date that the Customer accepts these terms and conditions on EV’s website to subscribe for the Product.

“Agreement Term” means the period specified in clause 9.1.

“Applicable Law” means the laws of England and Wales and any other laws or regulations, regulatory policies, directives, statutes, subordinate legislation, common law, guidelines or industry codes including, without limitation, Data Protection Law (as defined in Schedule 2), which apply to the provision of the Services and which may be amended or replaced from time to time.

“Authorised User” means a person who is permitted to use the Product(s) within the relevant Scope of Use specified on the first page of this Agreement.

“Confidential Information” means all information of a confidential nature (in any form) which is imparted or disclosed to, or otherwise obtained by a party (whether directly or indirectly) including the other party’s know-how, trade secrets, financial, commercial, technical, tactical, strategic, marketing or customer information, employee information, any information agreed to be or marked as confidential, any other information a party knows, or could be reasonably

expected to know, is confidential and any other such information related to or concerning a party’s business, including non-public business, infrastructure, products, services, developments, inventions, trade secrets, know-how or financial information (whether, commercial, technical or otherwise) in any medium or format (written, oral visual or electronic) and whether or not marked or described as “confidential” which is disclosed or received before or after the date of this Agreement as a result of the discussions leading up to this Agreement, entering into this Agreement or the performance of this Agreement.

“Consumer” means an individual who has purchased or accessed a product or service promoted by the Customer in accordance with the terms of the Licence.

“Customer” means the legal entity subscribing for EV’s Product on EV’s website.

“Customer’s Business Related Claim” means (i) an investigation by or at the behest of a regulatory authority; or (ii) any witness summons issued against the Supplier by a court of competent jurisdiction in relation to the subject matter of this Agreement; or (iii) any claim, demand or proceeding made or brought by any Consumer, sub-licensee, sub-licensee employees, (including without limitation their sub-licensees, dependants, relatives, heirs, trustees and administrators, or other persons similarly connected with a pension scheme) which, in each of cases (i), (ii) and (iii) above, arises from the Customer’s use of the Product or Services and the Supplier’s performance under this Agreement or the use of or reliance on the Product or any output of the Product by any Consumer, sub-licensee or third party.

“Data Protection Law” is as defined in Schedule 2.

“Group” means, in relation to a party, its subsidiaries and holding companies and the subsidiaries of any such holding companies (and the terms “subsidiary” and “holding company” shall have the meanings given to them by section 1159 of the Companies Act 2006).

“Intellectual Property” means all (i) intellectual property: copyright and related rights, patents, trademarks and related goodwill, trade names (whether registered or unregistered), design rights (whether registered or unregistered),

database rights and rights to apply for registration of any of the foregoing; (ii) proprietary rights in domain names; (iii) trade secrets, confidential information and knowhow; (iv) applications, extensions and renewals in relation to any of the foregoing rights; and (v) all other rights of a similar nature or having equivalent effect existing anywhere in the world.

“Licence” means the licence granted pursuant to clause 2 of this Agreement which shall continue for the Licence Period in accordance with the terms of this Agreement.

“Licensee” means the Customer who has subscribed for use of EV’s Product on EV’s website.

“Licence Period” is as specified on EV’s website by the Customer when subscribing for a Licence on EV’s website.

“Personal Data” means the definition of personal data as defined in Schedule 2.

“Product(s)” means the computer programs created by the Supplier, including the Income Risk Questionnaire, licensed to the Customer under this Agreement, including copies of it, in object code form and source code form.

“Regulator” means a statutory authority or agency regulating the business of the Customer in the UK from time to time.

“Service(s)” means the licensing, hosting, maintenance and Updating services related to the Product being licensed.

“Scope of Use” means the permitted use granted under the Licence and the Authorised Users of the relevant Product as stipulated when subscribing for EV’s Product on EV’s website.

“Schedules” means the Schedules listed on the first page of this Agreement which are incorporated by reference to this Agreement.

“Solutions” are fixes or workarounds that eliminate the incident or move the incident into a lower incident category, which are provided remotely and which may (or may not) include EV providing maintenance.

“Support” means the support available to the Customer as set out in paragraphs 1,2 4 and 5 of Schedule 1.

“Updating” means the service EV provides for regular updates of its Products as described in paragraph 1 of Schedule 1.

“User Terms” means the terms and conditions to be accepted by the Customer when accessing Supplier Products under EV’s name as may be updated from time to time by EV.

“Working Day” means a day (other than a Saturday, Sunday or public holiday) when the banks are open for business in England, or in relation to the Product hosting service specified in Schedule 1, a day in which there are Core Hours as defined in paragraph 5 of Schedule 1.

Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term referencing those terms.

2. PRODUCT LICENCE AND WARRANTY

2.1. EV grants to the Customer and the Customer accepts from the relevant Agreement Commencement Date a non-exclusive, non-transferable, and revocable licence to use, and permit its Authorised Users to use, the Product subscribed for by the Customer on EV’s website for the License Period.

2.2. On expiry of the Licence Period, the Licence shall automatically terminate unless agreed otherwise between the parties.

2.3. The Customer must not sublicense, transfer or distribute the Product.

2.4. The Customer undertakes not to, nor attempt to, or permit others to, disassemble, decompile, reverse engineer or create derivative works based on the whole or any part of the Products except to the extent that such actions cannot be prohibited (by virtue of section 296A of the Copyright, Designs and Patents Act 1988) because they are essential for the purpose of achieving inter-operability of the Products with another software program, and provided that the information obtained by the Customer during, or from,

such activities is: (i) used only for the purpose of achieving such inter-operability; (ii) not unnecessarily disclosed or communicated without EV's prior written consent to any third party; and (iii) not used to create any software which is substantially similar to the Products.

3. HOSTING SERVICE

3.1. Hosting Services shall be provided in accordance with Schedule 1.

4. SERVICES – Not used.

5. USER TESTING – not used.

6. RESPONSIBILITIES

6.1. The Customer will make and keep full back-up copies of its data that is inputted into, stored within, or accessed by, the Product. The Customer acknowledges that EV does not warrant the Product is uninterrupted or free of bugs and errors.

6.2. EV warrants that it shall undertake the Support and all Services using reasonable care and skill.

6.3. To the extent that EV may reasonably require in order to perform its obligations in this Agreement, the Customer shall provide EV with reasonable co-operation and assistance to enable EV to support the Product(s).

7. INTELLECTUAL PROPERTY

7.1. The Intellectual Property rights in the Products shall remain vested in and the absolute property of EV.

7.2. The Customer shall notify EV immediately if the Customer becomes aware of any unauthorised access to or use or copying of, any part of the Product by any person.

7.3. EV shall indemnify the Customer fully against any and all direct loss or reasonable expense suffered by the Customer as a result of a claim made against it that the normal use or

possession of the Product by the Customer infringes the Intellectual Property rights of any third party, provided that EV is given complete control of such claim, that the Customer does not knowingly prejudice EV's defence of such claim and that the Customer gives EV assistance reasonably requested by EV with such claim at the cost and expense of EV.

7.4. Without prejudice to clause 7.5, if the normal use or possession of the Product by the Customer infringes or, in EV's opinion, is likely to be held to infringe, the Intellectual Property rights of any third party, EV may at its option procure for the Customer the right to continue using the Product free from any liability from such infringement; modify or replace the Product so as to avoid the infringement; or terminate the Agreement immediately on written notice.

7.5. The provisions of this clause 7 shall be the sole and exclusive remedy of the Customer in relation to any claim based on an alleged infringement of any third party Intellectual Property Rights and shall survive the expiry or termination (howsoever effected) of the Agreement.

8. CONSIDERATION

8.1. In consideration of the licensing of the Product to the Customer for the Licence Period, the Customer shall provide feedback to the Supplier in the format agreed between the parties.

9. TERM AND TERMINATION

9.1. This Agreement shall commence on the Agreement Commencement Date and shall continue until the expiry of the Licence Period unless and until terminated by either party in accordance with this clause 9 ("**Agreement Term**").

9.2. Either party shall be entitled to terminate this Agreement immediately if the other party: (i)

commits any material breach of this Agreement and fails to remedy that breach within thirty (30) days of written notice specifying that breach (the thirty (30) day period only applies if the breach is capable of remedy - if it is incapable of remedy, the Agreement may be terminated by written notice specifying the irremediable breach immediately); or (ii) being a company, shall pass a resolution for winding up (otherwise than for the purposes of a solvent amalgamation or reconstruction) or a court shall make an order to that effect; or, being a natural person, shall die, or (being a partnership or other unincorporated association) shall be dissolved; or shall cease to carry on its business or substantially the whole of its business; or it becomes or is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or if a liquidator, receiver, administrator, administrative receiver, manager, trustee, or similar officer is appointed over any of its assets.

9.3. The Supplier shall have the right to terminate this Agreement immediately if there is a change of control of the Customer within the meaning of s.1124 of the Corporation Tax Act 2010.

9.4. On termination of this Agreement howsoever caused: (i) all Licences granted pursuant to this Agreement shall terminate; (ii) the rights and duties created by clauses 2, 10, 11, 12, 14, and 17.2, shall survive; and (iii) any rights of either party which arose on or before termination shall be unaffected.

10. DATA PROTECTION AND ANONYMISED DATA

10.1. Both parties shall comply with the provisions and obligations imposed upon them by Data Protection Law as set out in Schedule 2.

10.2. The Customer acknowledges and understands that the Supplier gathers data (including personal data) for (a) the delivery of its Services; (b) the management of the Supplier's relationship with the Customer, including the marketing of products or services to the Customer which may be of interest to the Customer, invoicing, the settlement of disputes and associated business administration and (c) the development of the Supplier Group's products and services (for example conducting benchmarking, market research, data analysis), for the purposes of which the Supplier shall process aggregated, de-identified data, and shall not publish externally or otherwise disclose any information which derives from Customer-originating data which would identify an underlying data subject or Customer without Customer's prior consent.

11. CONFIDENTIAL INFORMATION

11.1. Each party agrees that it will keep confidential and not disclose, whether directly or indirectly, any Confidential Information belonging to the other.

12. LIABILITY

12.1. Nothing in this Agreement shall exclude or limit either party's liability for: (i) death or personal injury caused by its negligence; (ii) fraud or fraudulent misrepresentation; (iii) breach of clause 7; (iv) breach of clause 11, save that breach of Clause 10 and Schedule 2 shall be subject to the cap set out in clause 12.4.

12.2. EV shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for: (i) any loss of profits, loss of revenue, loss of business; (ii) depletion of goodwill and / or similar losses; (iii) loss or corruption of data or information; (iv) pure economic loss; (v) or for any special, indirect or consequential loss, costs,

damages, charges or expenses; however arising under this Agreement.

12.3. The Customer agrees that it is not entering into this Agreement on the basis of any statement or representation made by or on behalf of the Supplier and will have no remedy in respect of any untrue statement or representation made to it upon which it relied in entering into this Agreement (unless the statement or representation was made fraudulently).

12.4. Subject to clauses 12.1, 12.2 and 12.3, EV's total aggregate liability for all loss and damage in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising under or in connection with the Agreement shall be limited to £100 (one hundred pounds) during the Licence Period.

12.5. The parties agree that should any Customer's Business Related Claim arise it will derive from the Customer's use of the Product and the parties agree that it is appropriate that any Customer's Business Related Claim should be defended by the Customer, even if the Customer's Business Related Claim is made directly against the Supplier, unless the Supplier opts to defend it.

12.6. Notwithstanding any other provisions to the contrary, the Customer agrees to indemnify and hold harmless the Supplier from and against all damages, losses, liabilities and reasonable legal expenses and staff time expended by the Supplier or such other party (based on the Supplier's then current hourly time charges) ("**Loss(es)**") arising from a Customer's Business Related Claim provided that: (i) the Supplier promptly notifies the Customer in writing in respect of any claim or circumstance which may result in a Loss; (ii) the Supplier does not make any admission of liability or agree to any settlement or compromise of any claim without the prior written consent of the Customer; (iii) on a prompt and timely basis

the Supplier shall have provided all such documents, information and assistance and have done all such acts and things as the Customer may have reasonably required to assist the Customer in relation to such claims; and (iv) the Supplier shall take reasonable steps to mitigate the Losses.

12.7. The obligation to indemnify in clause 12.6 shall not apply to the extent that any Losses are determined by a final judgement of a court of competent jurisdiction, in an action in which the Supplier has taken part (other than merely to contest jurisdiction), to have resulted from any crime, dishonesty, or fraud on the part of the Supplier.

12.8. The obligation to indemnify in clause 12.6 shall also not apply in the event of a claim against the Supplier by a third party insofar as it arises from damage to physical property.

12.9. The parties agree and acknowledge that the limitations of liability set out in this clause 12 have been agreed taking into account the availability of insurance to the Customer to protect against the risks arising in connection with the Agreement.

12.10. Except as expressly provided in this Agreement, EV hereby excludes any implied condition or warranty concerning the merchantability, quality or fitness for purpose of the Product whether such condition or warranty is implied by statute or common law.

13.CHANGES AND CHANGE CONTROL – not used

14.GOVERNING LAW & JURISDICTION

14.1. This Agreement is governed by the laws of England and the exclusive jurisdiction of the courts of England and Wales.

15.COMPLIANCE REQUIREMENTS

15.1. The Supplier agrees to deal with a Regulator in an open and co-operative way.

16. BRIBERY/ANTI-CORRUPTION/FRAUD

16.1. In performing its duties under this Agreement, EV will (and shall procure that its officers, employees and subcontractors will) comply with all applicable anti-bribery and anti-corruption laws (and related regulation and guidance).

17. GENERAL PROVISIONS

17.1. **Assignment.** The Customer may not assign or otherwise transfer its rights or obligations under this Agreement without the prior written consent of EV. The Supplier may assign or otherwise transfer all or any of its rights and obligations under this Agreement to a Group company or any organisation with a demonstrably comparable or better capability to provide the required service without the consent of the Customer.

17.2. **Third Party Rights.** The parties hereby exclude to the fullest extent permitted by law any rights of third parties (including Sub-Licensees) to enforce or rely upon any of the provisions of this Agreement.

17.3. **Relationship.** Nothing in this Agreement shall render the Customer a partner or an agent of EV and the Customer shall not purport to undertake any obligation on EV's behalf nor expose EV to any liability nor pledge or purport to pledge EV's credit.

17.4. **Force Majeure.** Neither party shall be in breach of this Agreement to the extent that it is prevented from performing its duties and obligations under this Agreement directly or indirectly as a result of a force majeure event.