

TERMS AND CONDITIONS FOR GLWS RESPONDENTS

1. INTRODUCTION

1.1 Parties

The following Terms & Conditions (**Terms**), together with our Privacy Policy and our GLWS Website Terms of Use are the complete terms of a legal agreement between Respondents to the GLWS Survey (**you**) and E.E.K. & SENSE Pty Ltd ACN 606 086 793 (**EEK & SENSE, us or we**) in relation to your access to and use of the GLWS Website, the GLWS Survey and any of our GLWS Products and Services.

1.2 Formation of Contract

We may alter these Terms from time to time by posting the altered version on the Website. You should visit the Website regularly to keep up to date with any alterations.

By continuing to use the Website or by accessing the GLWS Survey and by submitting your responses to the GLWS Survey, you accept the Terms that are current at the time. In the case of an alteration, the altered Terms only apply after the alteration takes effect.

1.3 The Website

The website is operated by EEK & SENSE. Please refer to our GLWS Website Terms of Use and if you have any questions or need clarification on any issue please email us at admin@glswellbeing.com.

In these Terms, words that are capitalised are defined and their definitions can be found at the end of these Terms.

2. GENERAL TERMS

2.1 Information on the Website or in the GLWS Survey

Information on the Website or in the GLWS Survey may or may not change from time to time. It is not promised or guaranteed to be correct, current, or complete. The Website and the GLWS Survey may contain technical inaccuracies or typographical errors. While we endeavour to keep the Website and the GLWS Survey up to date, we assume no responsibility (and expressly disclaim responsibility) for updates to keep information current or to ensure the accuracy or completeness of any posted information. You should confirm the accuracy and completeness of all posted information before making any decision related to any GLWS Products or Services. EEK & SENSE does not warrant, represent or guarantee the accuracy, utility, currency or any other characteristic of information on the Website or in the GLWS Survey.

2.2 Intellectual Property Rights

All EEK & SENSE Materials and content in the GLWS Survey or displayed on or comprised by the Website, including but not limited to text, graphics, logos, button icons, images, the Website layout and software, is subject to copyright and other rights owned by EEK & SENSE, its related entities or its content suppliers and is protected by the Copyright Act 1968 (Cth) and other international copyright and intellectual property laws. EEK & SENSE Materials comprising brands, names, images and logos displayed on the Website or appearing in the GLWS Survey may be the subject of registered or unregistered trade marks of EEK & SENSE, its related entities, affiliates or its service providers and protected by the Trade Marks Act 1995 (Cth) and other international trade mark and intellectual property laws. You must not remove, alter or destroy any form of copyright notice, proprietary markings or confidential legends placed in the Software.

Use of any material on the Website or in the GLWS Survey, including but not limited to the reproduction, modification, distribution, transmission, re-publication or display of the content on the Website or in the GLWS Survey is strictly prohibited.

All intellectual property rights in the Software used to enable the delivery of the GLWS belong to Formation Systems Pty Ltd (the platform provider) and you have no rights in, or to the Software other than for the completion of the GLWS Survey. For the avoidance of doubt, you have no right to access the source code of the Software.

The Software used to enable delivery of the GLWS Survey is protected by technical protection measures (TPMs). You must not attempt in any way or facilitate the unauthorised removal or circumvention of any such TPM or translate, make alterations to, or modifications of, the whole or any part of the Software, reverse compile, disassemble, reverse engineer, modify or permit any part

of the Software to be combined or incorporated with other programs (except as may be permitted by the *Copyright Act 1968* (Cth)).

Nothing in these Terms or on the Website does or is intended to transfer any Intellectual Property Rights in the Website, the GLWS Survey, the platform or Software, or any GLWS Products or Services to any person. You must not infringe any third party rights when using the Software including any intellectual property and privacy rights.

2.3 Third-party material

The Website may provide links or references to third party websites (**Linked Sites**) or display material sourced from a third party (**Third Party Material**). EEK & SENSE is not responsible for and does not endorse the content of Linked Sites or Third Party Material, any use (or misuse) of information you may supply to or obtain from a Linked Site or any Third Party Material, or for any goods or services offered via Linked Sites or any Third Party Material. EEK & SENSE does not warrant or represent the accuracy, utility or any other characteristic of Third Party Material or information or content appearing in or on Linked Sites. EEK & SENSE is not a party to or responsible for any transactions you may enter into with third parties, even if you learn of such parties (or use a link to such parties) from the Website.

2.4 Security of electronic communications

We have put in place appropriate security measures to prevent your Personal Data from being accidentally lost, used or accessed in an unauthorised way, altered or disclosed. We have put in place procedures to deal with any suspected personal data breach and will notify you and any applicable regulator of a breach where we are legally required to do so.

However, there will always be inherent security and delivery risks in using electronic mail and transmitting data via the Internet and accordingly, EEK & SENSE gives no guarantee that any electronic communication you send to us, any electronic communication that we send you, any electronic data transmission you make via the Website or in submitting your responses to the GLWS Survey, and any electronic data transmission you or we make to GLWS Coaches (including transmissions of your Personal Wellbeing Report) will be secure, uninterrupted or delivered. You make such communications and transactions, agree to receive electronic communications from us and agree to us making such electronic data transmissions to GLWS Coaches at your own risk. In particular, by communicating with us electronically, electing to receive electronic communications

from us or permitting us to electronically transmit data to GLWS Coaches, you accept the risk of interception of such communications, transmissions and data by third parties and of non-receipt or delayed receipt of such communications, transmissions and data by us, you and GLWS Coaches, as applicable.

2.5 Technical requirements

Access to the Website, GLWS Survey, and to any of the GLWS Products and Services may only be available to compatible devices which meet specific system or software requirements specified on the Website or by EEK & SENSE from time to time. EEK & SENSE gives no warranty or guarantee that access to or use of the Website, GLWS Survey or any GLWS Products or Services will be available to all devices and you are solely responsible for ensuring that any device you use meets system, software or other requirements. Please also refer to our Website Terms of Use.

Formation Systems Pty Ltd (the GLWS platform provider and the owner of the Software) is not responsible to you for any non-performance, failure or other aspect of the Software. No contract is created between you and Formation Systems Pty Ltd.

2.6 Viruses

You are responsible for protecting your computer and any devices from malicious or destructive content and programs such as viruses, worms and Trojans, and to protect your information as you deem appropriate. Please also refer to our Website Terms of Use.

2.7 Disclaimer of warranty

Use of the Website, the GLWS Survey, the GLWS Products, the Software and any Services is at your sole risk, though we do not exclude or limit in any way our liability to you where it would be unlawful to do so. To the fullest extent legally permitted, all materials, information, products, programs and services are provided “as is”, with no warranties or guarantees whatsoever. EEK & SENSE expressly disclaims to the fullest extent permitted by law all express, implied, statutory and other warranties, guarantees or representations, including, without limitation, the warranties of merchantability, fitness for a particular purpose and non-infringement of proprietary and Intellectual Property Rights. Without limitation, EEK & SENSE does not represent or warrant that the Website, the GLWS Survey, the GLWS Products, the Software or Services or the functions within the Website, the GLWS Survey, GLWS Products or Services will be accurate, available, uninterrupted, error-free or secure, that any

defects will be corrected, or that the Website, GLWS Survey, GLWS Products, Software or Services or the server/s that make any of them available are free of viruses or other harmful elements.

You understand and agree that the Software achieves your intended results. If you download or otherwise obtain materials, information, products, software, programs or services, you do so at your own discretion and risk and that you will be solely responsible for any Losses or damages that may result, including loss of data or damage to your computer system.

If applicable law prohibits the exclusion of any of the warranties, guarantees, conditions or representations referred to above or elsewhere in these Terms, to the extent legally permitted, EEK & SENSE limits its liability for breach of any such warranties, guarantees, conditions or representations to resupply of the affected products or services or payment of the cost of resupply of the affected products or services, at EEK & SENSE's discretion.

2.8 Limitation of liability

We do not exclude or limit in any way our liability to you where it would be unlawful to do so.

To the fullest extent legally permitted, in no event will EEK & SENSE and/or Formation Systems be liable to you or to any person for any Losses of any type whatsoever related to or arising from: the Website, the GLWS Survey, the Software, any of the GLWS Products or Services; or any use of any of them or any site, service, product, resource linked to, referenced or accessed through the Website; or any advice, information or services provided by, or acts or omissions of, a GLWS Coach; or from the use, transmission or downloading of, or access to, any materials, information, products or services; including, without limitation, any lost profits, business interruption, lost savings or loss of programs or other data, even if EEK & SENSE is expressly advised of the possibility of such damages. This exclusion and waiver of liability applies to all causes of action, whether based on contract, warranty, tort (including negligence) or any other legal theories. To the extent that the above exclusion of liability or any other exclusion of liability contained in these Terms is unenforceable, invalid or ineffective for any reason, it will be severed from these Terms and EEK & SENSE's maximum aggregate liability for all losses, damages and other amounts referred to in the relevant exclusion of liability under any cause of action is limited to AUD\$50.00.

2.9 Respondent Indemnity

You agree to indemnify, defend, release and hold harmless EEK & SENSE from and against all Losses made by any person due to or arising out of: (a) your use of the Website, the GLWS Survey, the Software, the GLWS Products and/or the Services; (b) any violation of these Terms (including

warranties expressly given by you in these Terms), any terms and policies it incorporates by reference, the rights of another party, any applicable law, statute, ordinance or regulation; (c) any use or misuse of or reliance on any information or materials on the Website; (d) your use of or reliance on any advice, information or services provided by a GLWS Coach; or (e) any interactions or transactions in which you engage with a GLWS Coach.

2.10 Privacy

Your privacy is important to us. Further information about the collection, storage and use of your Personal Data is contained in our Privacy Policy. By accessing, browsing or using this Website, accessing the GLWS Survey and/or by supplying any information (including Respondent Data) to EEK & SENSE, you acknowledge that you have read, understood and agree with the terms of our Privacy Policy. In particular, as a Respondent, you have provided your valid and explicit consent to our and Formation Systems Pty Ltd's processing of your Personal Data by collecting, storing, using and disclosing your Personal Data as set out in our and Formation Systems Pty Ltd's Privacy Policy. If you wish to withdraw such consent, you must promptly notify us so that we can configure the Software so that it does not process your Personal Data.

2.11 Personal use only

We provide the Website and the GLWS Survey (and access to the Software) to you individually and personally. You must not transfer their link to complete the GLWS to a third party or permit any third party to access their link. Your right to access and use the Website and GLWS Survey and Software cannot be transferred to anyone else and you must not re-sell or distribute the products or services offered by our Website to anyone else or make other commercial use of the Website, GLWS Survey, Software or any GLWS Products or Services without our prior written consent.

2.12 Cancellations and suspensions

At our sole discretion, we may: (a) cancel or suspend your access to the Website (including the Software incorporated therein) or to the GLWS Survey; or (b) cancel or suspend the operation of the Website in its entirety, including the GLWS Survey at any time.

2.13 GLWS Survey

The GLWS Survey is only available to persons who are at least eighteen years of age. By accessing the GLWS Survey and by submitting your responses to the GLWS Survey, you warrant that you are at

least eighteen years of age. You agree not to impersonate any other person or to use a false name or a name that you are not authorised to use when accessing and completing the GLWS Survey, unless with the express permission of EEK & SENSE. We reserve the right to refuse access to the GLWS Survey by any person for any reason at our discretion.

2.14 Accessing the GLWS Survey

We will provide you by email a confidential and unique link to access the GLWS Survey. You must keep this unique link confidential and take all necessary steps to prevent unauthorised disclosure of or access to your unique link. You are solely responsible for all use of your unique link and for the actions of any person that obtains your unique link. You should notify us immediately by email if there is any reason to believe that your unique link is likely to be used in an unauthorised manner. In such a case, we will, within a reasonable time of being notified, cancel the relevant link and send you a new link by email.

2.15 Your Personal Data

You acknowledge and agree that in order for us to communicate with you and provide you with access to the GLWS Survey, you must provide your GLWS Coach with certain Personal Data (including your name and current email address). We may use your notified email address to contact you or send you notifications and other communications from time to time.

You also acknowledge and agree that;

- (a) you may disclose Personal Data to us in the course of completing the GLWS Survey or using any GLWS Products or Services; and
- (b) that you have provided your valid consent (via the consent collection on the GLWS Survey) to us collecting and processing your Personal Data in the ways and for the purposes as set out in our Privacy Policy; and
- (c) that you have given your consent to your GLWS Coach collecting and disclosing to us your Personal Data for the above purposes.

You acknowledge that we may be unable to provide you with access to the GLWS Survey or other GLWS Products or Services including your Personal Wellbeing Report, or contact you unless you provide us or your GLWS Coach with a current email address and agree to promptly update us and/or your GLWS Coach if you change your email address.

2.16 Transmitting Respondent Data

We require all third parties, including your GLWS Coach, to respect the security of your personal data and to treat it in accordance with the law. We will share your Personal Data with third parties (please refer to our Privacy Policy for more details about how and why we process your Personal Data) and where necessary and as relevant depending on your applicable Data Protection Legislation we require those third parties to enter into data processing and/or data sharing agreements with us, which impose high data protection standards in accordance with the relevant Data Protection Legislation.

However, you acknowledge and agree that EEK & SENSE does not select your **GLWS Coach** for you or require or recommend that you engage with any GLWS Coach in particular. Therefore, when we share your Personal Data with your GLWS Coach, we do so on the basis that you have consented to this transfer via the consent collection in the GLWS Survey.

2.17 GLWS Coaches:

For the avoidance of doubt, GLWS Coaches are not employees or agents of EEK & SENSE. We assume no responsibility for any advice, information or services provided by, or any acts or omissions of, any GLWS Coaches. We do not make any representation, warranty or guarantee that the supply of your Personal Wellbeing Report (including Respondent Data) to your GLWS Coach or the debrief session with your GLWS Coach will yield any particular result.

Your GLWS Coach is solely responsible for all queries and complaints concerning the provision of advice, information and services by them to you. Any disputes between you and a GLWS Coach must be resolved between you and the GLWS Coach without involving us and you agree not to make any claims or bring any suits or actions against us in connection with any advice, information or services provided by, or any acts or omissions of, any GLWS Coach.

2.18 Anonymised Respondent Data

Despite anything else in these Terms, you acknowledge and agree that EEK & SENSE and its suppliers may from time to time use, disclose or distribute to any person for any reason your Respondent Data provided that your Personal Data has been removed from the Respondent Data and the content of the Respondent Data has been modified so that you cannot be identified from the Respondent Data and so that it will no longer amount to Personal Data. EEK & SENSE or its suppliers may de-identify your Respondent Data and your Personal Wellbeing Report at any time after 6 months have elapsed from the date of preparation of your Personal Wellbeing Report.

2.19 Personal Wellbeing Report

You acknowledge and agree that your Personal Wellbeing Report may provide a general indication of personal wellbeing by reference to factors commonly affecting wellbeing. However, the GLWS Survey may not cover all matters affecting or relevant to your wellbeing given each individual's unique circumstances. Your Personal Wellbeing Report does not purport to be exhaustive or definitive and does not constitute professional counselling or advice.

Without limiting the preceding, you are free not to complete all or any part of the GLWS Survey and agree that if you do not properly complete the GLWS Survey or insert incomplete or incorrect information, your Personal Wellbeing Report may not be accurate. If you have any concerns about specific aspects of your personal wellbeing, you should consult a suitably qualified professional.

2.20 Licence

You are granted a non-exclusive, non-transferable right to access and use the Software solely for you to complete the GLWS Survey, subject to these Terms (**Licence**). You must not use or access the Software other than strictly in accordance with the Licence. Upon termination of these Terms or your account on the Website, all rights granted to you under the Licence will automatically and immediately cease and you must immediately cease all activities authorised by the Licence. You must notify us of any actual or potential breach of the provisions of these Terms. If we issue a notice of breach, you must remedy the breach within 7 days of notice (**Notice**). If you are unable to remedy such a breach within 7 days of the Notice, if the breach is not able to be remedied, if you breach Formation Systems Pty Ltd's intellectual property rights or if you suffer an Insolvency Event, these Terms (including the Licence) will terminate immediately.

You grant to EEK & SENSE and Formation Systems Pty Ltd a non-exclusive, royalty-free, irrevocable, perpetual, worldwide, transferable, sub- licensable licence to:

- (a) reproduce and store your Personal Wellbeing Report and Respondent Data for the purposes of providing the Services;
- (b) communicate and transmit your Personal Wellbeing Report (including Respondent Data) to your GLWS Coach;
- (c) permit your GLWS Coach to download and access your Personal Wellbeing Report (including Respondent Data);
- (d) modify your Respondent Data;

- (e) disclose and distribute to any person for any reason Respondent Data from which your Personal Data has been removed and that has been modified so that you cannot be identified from the Respondent Data; and
- (f) do all acts (including reproducing and otherwise making use of any copyright work which subsists within the Respondent Data) as may be reasonably necessary for the purpose of providing the Services.

This licence in respect of your Respondent Data shall survive termination and expiry of these Terms and survives cancellation or suspension of the Website or your access to the Website, the GLWS Survey or any GLWS Products or Services for any reason.

2.21 Warranties

By accessing or using the GLWS Survey or any GLWS Products or Services, you represent and warrant that:

- (a) all information and data you submit to EEK & SENSE from time to time for the purposes of accessing and using the GLWS Survey or any GLWS Products or Services is correct, current and complete;
- (b) you own all Intellectual Property Rights in the Respondent Data and other materials and information you submit to EEK & SENSE and otherwise have the right to grant the Licence to EEK & SENSE;
- (c) the exercise by EEK & SENSE of any rights granted to it by the Licence, including the transmission of Personal Wellbeing Reports and Respondent Data to GLWS Coaches, will not infringe the Intellectual Property Rights or other rights of any person; and
- (d) the materials and information you provide to EEK & SENSE, including by completing the GLWS Survey, do not infringe the Intellectual Property Rights or other rights of any person.

You are solely liable for (and indemnify, defend and hold harmless EEK & SENSE from and against) all Losses suffered by any person directly or indirectly as a result of a breach of any of the above warranties and agree not to bring any claim, action, proceeding or suit against EEK & SENSE in respect of such Losses, or assist any person to do so.

2.22 Mediation

Any complaint, dispute or controversy arising in any way out of these Terms may at our option be referred to the Australian Commercial Disputes Centre (**ACDC**) for mediation in accordance with the

ACDC Guidelines in force at the date the dispute is referred. Both you and EEK & SENSE agree to participate in mediation in good faith in accordance with the ACDC Guidelines if a dispute is referred to mediation.

2.23 Severance

If any part of these Terms is deemed unlawful, void or for any reason unenforceable then that provision is deemed to be severed from these Terms and does not affect the validity and enforceability of any of the remaining provisions of these Terms.

2.24 Waiver:

No failures to exercise and no delay in exercising on our part any right or privilege under these Terms operates as a waiver of that right or privilege. A waiver by us of any breach of these Terms does not prevent the subsequent enforcement of that provision and will not be deemed to be a waiver of any subsequent breach of that or any other provision.

2.25 Entire agreement

These Terms and any other document referred to herein (including without limitation, the Privacy Policy and the GLWS Website Terms Of Use) shall constitute the entire and only agreement between you and us in relation to its subject matter and replace all prior or simultaneous agreements, undertakings, arrangements, understanding or statements of any nature made by you or us whether oral or written with respect to such subject matter. You acknowledge that you are not relying on statements, warranties or representations given or made by us in relation to the subject matter of these Terms, except those expressly set out in these Terms, and that, to the extent legally permitted, you have no rights or remedies with respect to such subject matter otherwise than under these Terms. Clauses 2.2 and 2.8 survive termination or expiry of these Terms.

2.26 Force Majeure

We will be under no liability to you in respect of anything which may constitute a breach of these Terms arising by reason of force majeure or circumstances beyond our control.

2.27 Applicable law

These Terms are governed by the law of New South Wales, Australia. The parties submit to the exclusive jurisdiction of the courts of New South Wales and its appellate courts.

2.28 Assignment

You must not transfer, assign, charge or otherwise dispose of your rights and obligations under these Terms. Any purported assignments are void.

3. DEFINITIONS

Data Protection Legislation means the General Data Protection Regulation ((EU) 2016/679) (**GDPR**) and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications) worldwide, including the Australian Privacy Act 1988, as relevant depending on the legislation that applies to the personal data of each data subject (i.e. references in these Terms to obligations under the Data Protection Legislation in relation to the personal data of an data subject located in the European Union shall be a reference to the GDPR whereas for a data subject located in Australia, the relevant legislation shall be the Australian Privacy Act 1988); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party.

EEK & SENSE includes its officers, directors, employees, related bodies corporate, agents, contractors, licensors and suppliers for the purposes of indemnities and liability exclusions and limitations in these Terms.

EEK & SENSE Materials means any information, documents, data, content, images, branding, audio visual materials (including audio or video files of any type) or other materials EEK & SENSE uploads to or displays on the Website from time to time in any form.

GLWS Coach means an individual that has completed a training course provided by EEK & SENSE on how to use GLWS Products and has been approved by EEK & SENSE to use the GLWS Products for the purposes of administering the GLWS Survey to Respondents, explaining the results of the GLWS Survey to Respondents, debriefing the Personal Wellbeing Report with Respondents and providing recommendations to Respondents based on those reports.

GLWS Products means any products, documentation and materials (in any form) supplied by EEK & SENSE from time to time, including: (a) the GLWS Survey; and (b) the Personal Wellbeing Report.

GLWS Survey means the web-based Global Leadership Wellbeing Survey provided by EEK & SENSE, being a psychology-based questionnaire designed to assess the wellbeing of a leadership population, as updated from time to time.

Insolvency Event means (a) where the party is an individual, that party commits an act of bankruptcy or is declared bankrupt or insolvent or that party's estate otherwise becomes liable to be dealt with under any law relating to bankruptcy or insolvency; (b) where the party is a company: (i) a resolution is passed or Court order made for the winding up of that party or an administrator is appointed to that party pursuant to any relevant law; (ii) a receiver or manager or receiver and manager is appointed to the assets or undertaking of the party or any part thereof; or (iii) the party is unable to pay its debts as and when they fall due.

Intellectual Property Rights means statutory, proprietary and all other rights throughout the world in respect of copyright, trade marks, confidential information, patents, designs and all other rights of a like nature, by law in force in any part of the world including all applicable renewals and extensions.

Losses means losses, expenses, claims, proceedings, damages and costs (including actual, special, direct, indirect, incidental, exemplary or consequential) of every kind and nature.

Personal Data means any information or data that you provide EEK & SENSE or a GLWS Coach in any form from time to time which relates to a living individual who can be identified from, or whose identity is apparent or can reasonably be ascertained from, that information or data alone or in conjunction with other information or data.

Personal Wellbeing Report means a report summarising the Respondent's responses to the GLWS Survey, including Respondent Data.

Privacy Policy means the privacy policy published on the Website (at www.glswellbeing.com) or any other website which may replace that website, as updated from time to time.

Services means any services provided by EEK & SENSE from time to time, including: (a) provision of the Website; (b) provision of access to or links to the GLWS Survey, Personal Wellbeing Reports and other GLWS Products; (c) transmission of Personal Wellbeing Reports and Respondent Data to GLWS Coaches; and (d) facilitating interactions between Respondents and GLWS Coaches.

Software means the software underlying the online platform, operated by Formation Systems Pty Ltd, which allows EEK & SENSE to create, administer, monitor and manage and report on online GLWS Surveys and includes all and any documentation, manuals, user guides and other materials supplied to you in connection with that platform.

Respondent means an individual that has, under the supervision and at the invitation of a GLWS Coach, been invited to access and complete, has commenced or has completed, the GLWS Survey.

Respondent Data means any information, data or other materials provided by the Respondent in the course of completing the GLWS Survey, which may include Personal Data relating to the Respondent.

Website means the websites located at www.glswellbeing.com, www.myglws.com, any websites which may replace those websites from time to time and any other application distribution platform (including mobile applications) through which EEK & SENSE provides GLWS Products or Services from time to time.