
GANTTED PTY LTD
WEBSITE TERMS OF USE FOR USERS OTHER THAN CONSULTANTS

prepared by

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WEBSITE TERMS OF USE FOR USERS OTHER THAN CONSULTANTS

The Gantttd website located at www.gantttd.com (the “**Website**”), is owned, controlled and operated by Gantttd Pty Ltd (ABN 35 644 386 167) (“**we**”, “**us**”, “**our**”, or “**Gantttd**”).

The terms and conditions set out below (“**Terms of Use**”) apply to use of the Website by you (the “**User**”, “**you**” or “**your**”) when you use the Website as a User other than a Consultant. Additional terms and conditions apply if you register to use the Website as a Consultant. The Website is available for you to use conditional on your acceptance of these Terms of Use.

BY ACCESSING OR USING THE WEBSITE, YOU AGREE TO BE LEGALLY BOUND BY THESE TERMS OF USE.

IF YOU DO NOT AGREE TO THESE TERMS OF USE, YOU SHOULD STOP ACCESSING OR USING THE WEBSITE IMMEDIATELY.

We reserve the right to amend these Terms of Use at any time. Notice of any amendments will be displayed on the Website and sent to all Registered Users by email. Your continued use of the Website following any change(s) to the Terms of Use shall mean that you accept such change(s) and that you will be bound by the Terms of Use as varied.

By accepting these Terms of Use, you also acknowledge that you have read our Privacy Statement available gantttd.com/policy and to the extent permitted by law, you consent to how we collect, handle and use your Personal Information in accordance with our Privacy Statement. Where required, we will provide separate notice and request your consent as referenced in the Privacy Statement.

Any questions about these Terms of Use can be directed to info@gantttd.com.

PLEASE CAREFULLY NOTE BEFORE READING:

- These Terms of Use apply to Users other than Consultants. Consultants are subject to a separate set of Terms of Use available via our Website.
- Capitalised words are defined in the Definitions Section in clause 19.1 or otherwise in the body of the Terms of Use.
- You must be a Registered User to use the Website.
- If you are a Consumer, the Website Services come with Consumer Guarantees under the ACL.
- If you are a Consumer, nothing in these Terms (including, without limitation, the disclaimers of liability contained in clause 12 and limitations of liability contained in clause 13) is intended to limit or exclude your Consumer Guarantees.
- Subject to any rights which you may have as a Consumer or otherwise at law, your use and access of the Website is provided on an “as is” basis and entirely at your own risk.
- Your ability to hold us responsible for any loss or damage that you may suffer from accessing or using the Website may be significantly restricted.
- You are solely responsible for compliance with all laws and regulations applicable to your use of the Website and the supply of Services under Project Contracts.
- There are restrictions that apply to your use of the Website, and there are significant consequences if you do not comply with such restrictions.
- You may be required to indemnify us for certain loss or damage that we may suffer from your breaching these Terms of Use.
- If you input or upload any User Content to the Website, you provide us with a licence to use the Intellectual Property subsisting in that User Content.
- We collect, handle and use your Personal Information in accordance with our Privacy Statement.

1. Application

- 1.1 These Terms of Use apply to all Users other than Consultants, whether or not the User is a Registered User. By visiting, viewing, browsing, accessing, creating a User Account, or otherwise using the Website, you accept and agree to comply with these Terms of Use. Consultants are subject to a separate set of Terms of Use available via our Website.
- 1.2 These Terms of Use comprises of this document, our Privacy Statement and such other policies that we may introduce or amend from time to time, all of which are incorporated herein by reference. We will give you reasonable notice of a new policy or changes to the Terms of Use by posting on our Website or otherwise notifying you on the Website. By continuing to access or use the Website, or continuing to maintain a User Account, after we have given notice of an introduction of a policy or variation of these Terms of Use, you agree to continue to be bound by the Terms of Use as varied.
- 1.3 You must be 18 years old to use the Website and to create a User Account. By accessing the Website and/or creating a User Account, you warrant that you have legal capacity to agree and to be bound by these Terms of Use.

2. Description of Website and Website Services

- 2.1 Subject to clause 2.2 and the other terms of the Terms of Use, Gantted operates the Website. The Website connects Builders/Property Developers ("**Builders/Property Developers**") seeking consultants ("**Consultants**") to supply certain services, such as design, architectural or other services, ("**Project Services**") and Consultants willing to supply certain Project Services to Builders/Property Developers, by providing intermediary functions and services ("**Website Services**") as follows:
 - a. Guests can browse the Website for information about the Website Services;
 - b. Registered Users can create their profiles via the Website;
 - c. Where the Registered User is a Builder/Property Developer, they can make offers Consultants to supply Project Services via Project Posts or directly via the Directory, and chat with Consultants via the Website to form Project Contracts; and
 - d. Where the Registered User is a Consultant, they can submit Project Proposals in relation to Project Posts via the Website, and chat with Builders/Property Developers that have posted Project Posts to form Project Contracts. Consultants are unable to see other Consultants registered on the Website.
- 2.2 We reserve the right to introduce additional functions and services on the Website and to alter existing Website Services at any time without notice to Users.
- 2.3 All information related to the services to be performed is supplied by Users (Builder/Property Developer and Consultant). We reserve the right to review, approve or verify any information provided by Users prior to publication on the Website.
- 2.4 You expressly agree that we have no responsibility and make no warranty as to the truth or accuracy of any aspect of any information provided by Users, including, but not limited to, the ability of Consultants to provide services or the honesty or accuracy of any information provided by Users.
- 2.5 If you are a Consumer, the Website Services come with Consumer Guarantee under the ACL. If you are a Consumer, nothing in these Terms of Use (including, without limitation, the disclaimers of liability contained in clause 12 and limitations of liability contained in clause 13) is intended to limit or exclude your Consumer Guarantees.

3. Licence to use Website

- 3.1 Subject to the terms of these Terms of Use, we agree to grant you a limited, personal, non-exclusive, non-transferable, conditional and revocable licence to view, access and use the Website.
- 3.2 We may terminate the licence provided to you under clause 3.1 when you breach these Terms of Use or for any other reason (in our sole discretion).

4. User Account

- 4.1 In order to access some of the functionality of the Website, you must register a user account on the Website ("**User Account**"). User Accounts can be set up according to this clause. If you do not have a User Account, you will not be able to access all of the functionality of the Website. A User Account can only be created in the name of a Builder/Property Developer or Consultant.
- 4.2 You can register a User Account by providing us with a username, password, email address, full name and such other details as we reasonably require from time to time.
- 4.3 In order to register as a Builder/Property Developer, in addition to the information in clause 4.2, you must also provide us with your company name, position within the company and mobile telephone number. By registering or attempting to register as a Builder/Property Developer, you warrant that you hold all current permits and licenses you require to operate as a builder or property developer in the state or territory in which you are operating in Australia. We reserve our right to demand for you to provide us copies of any permits or licences at any time.
- 4.4 You will be required to create a unique password to obtain access to your User Account ("**Password**"). You are solely responsible for maintaining the confidentiality of your Password and undertake not to allow the security of your User Account to be compromised through misuse of your Password. You must immediately notify us of any suspected misuse of your Password.
- 4.5 Before your User Account will be registered, we may vet the information you have provided to us, either by contacting you directly or by checking third party sources, such as LinkedIn to determine, in our absolute sole discretion, whether you are a suitable and appropriate to hold the relevant User Account on our Website. We are not required to provide you with any reasons should be deem you unsuitable or not appropriate for a User Account.
- 4.6 Without limiting any other rights which we may have to communicate with you, you agree that we may send e-mails to the nominated e-mail address for your User Account for notification purposes regarding the Website (including in relation to any updates to these Terms of Use and Privacy Notice) and to verify your identity.
- 4.7 We maintain the right at all times in our sole unfettered discretion and without prior notice to refuse to register, terminate or suspend any User Account, and to remove access to, or suspend the use of, any specific functions associated with any User Account (such as Builder/Property Developer functions). We may refuse to register a User Account for a Builder/Property Developer if, in our absolute discretion, the Projects offered by the Builder/Developer are not appropriate for the Website or the Builder/Developer does not have the necessary licences and permits to hold a Builder/Property Developer User Account on the Website as determined by us at our absolute discretion.
- 4.8 You agree to not transfer your User Account to any other person, or allow access to your User Account by another person unless expressly authorised by us or these Terms of Use.
- 4.9 Once your User Account has been registered:
 - a. Builders/Property Developers can see the following information (at a minimum) about Consultants: full name, company name, position in the company, location, Category or Categories

of services provided, description of Consultant, skills, live Project Proposals, date of sign-up to Gantt, date of most recent Project Contract and Reviews; and

- b. Consultants can see the following information (at a minimum) about Builders/Property Developers: full name, company name, position in the company, location, description of the company, description of the company, date of sign-up to Gantt and Reviews.

5. Projects, Project Posts and Project Proposals

5.1 Subject to clause 9 and the Consumer Guarantees and Disclaimers in clause 11, Builders/Property Developers may upload an accurate and complete post outlining details of a Project ("**Project**"), which will then be published on the Website and be made available to all Consultants registered on the Website to bid on. Alternatively, Builders/Property Developers may contact select Consultants directly via the directory on the Website ("**Directory**") with an offer for the Consultant to supply Project Services to the Builder/Property Developer.

5.2 For each Project, Builders/Property Developers must also specify (at a minimum):

- a. the name of the Builder/Developer;
- b. the name and details of the Project;
- c. the Project Services the Consultant will need to provide to the Builder/Property Developer;
- d. the Category and sub-Category of the services the Builder/Property Developers is seeking for the Project;
- e. the location of the Project;
- f. the expected delivery time; and
- g. such other information that we may require a Builder/Property Developer to provide based on the Website's functions from time to time,

(herein referred to as the "**Project Post**").

5.3 A Consultant may submit a proposal in relation to a Project Post via the chat functionality on the Website to the Builder/Property Developer that listed the Project Post before the any cutoff date in the Project Post or, if not cutoff date is specified, before the Project Post is removed by the Builder/Property Developer ("**Project Proposal**"). Subject to clause 5.5, in submitting a Project Proposal, a Consultant agrees to provide the relevant Project Services as set out in the Project Proposal but is not guaranteed to be chosen by the Builder/Property Developer to provide the Project Services. A Consultant may submit multiple Project Proposals for the same Project Post.

5.4 For each Project Proposal, Consultants must specify (at a minimum):

- a. the title of the Project Proposal;
- b. the Category and sub-category of the Project Services for the Project Proposal;
- c. the description of the Proposal Project and Project Services;
- d. any instructions to the Builder/Property Developer in relation to the Project Post;
- e. the Project Proposal's tags;
- f. the delivery schedule for the Project Services in relation to the Project;
- g. the pricing for the Project Proposal (e.g. fixed fee, hourly rate, packed fee or otherwise);
- h. such other information that we may require a Consultant to provide based on the Website's functions from time to time.

5.5 The Builder/Property Developer may respond to a Consultant who has submitted a Project Proposal in relation to a Project Post listed by that Builder Property Developer or contact a Consultant directly via the Directory to make an offer for that Consultant to submit a Property Proposal in relation to a Project Post via the chat functionality on the Website. Builders/Property Developers and Consultants may negotiate and agree on the terms of an arrangement via the chat functionality, such terms which may differ from

the Project Proposal.

- 5.6 Where the Builder/Developer accepts a Project Proposal from a Consultant or a Builder/Developer and Consultant otherwise agree to work together on a Project Proposal ("**Awarded Project**"), then the Builder/Property Developer and the Consultant will be deemed to have entered into a separate contract under which the Builder/Property Developer agrees to purchase and the Consultant agrees to provide the Builder/Property Developer with the Project Services as outlined in the Project Proposal ("**Project Contract**"). The parties must contact each other and arrange to enter into a separate legal contract in which the obligations of the parties are clearly set out, including the details of the Project, payment and other terms and conditions applicable to the Project. Gantt is in no way a party to a Project Contract and is not liable for any actions or in actions of parties to a Project Contract.
- 5.7 Despite clause 5.6, the Project Contract incorporates the terms and conditions of these Terms of Use (to the extent they apply to the Builder/Property Developer and the Consultant) and any additional terms and conditions agreed upon by the Builder/Property Developer and the Consultant, including the description of the Project services to be provided by the Consultant and the fees being paid to the Consultant in exchange for the Project services. You agree not to enter into any Project Contract that conflicts with the terms and conditions of these Terms of Use. The terms and conditions of these Terms of Use will take priority over the terms and conditions of the Project Contract to the extent of any inconsistency.
- 5.8 By submitting a Project Proposal in relation to a Project Post, accepting a Project Proposal in relation to a Project Proposal or otherwise agreeing to work together with another Registered User on a Project, a Builder/Developer or Consultant confirms he or she is legal entity entitled to and capable of meeting the requirements of the Project Contract, and has any and all current permits and licences required to enter into the Project Contract.
- 5.9 Registered Users are free to withdraw Project Posts, Project Proposals and offers made to other Registered Users via the chat functionality, and to vary a Project or Project Proposal at any time prior to the formation of a Project Contract. Changes to a Project after the formation of a Project Contract may only be made by mutual agreement of the parties.
- 5.10 Each Consultant hereby warrants with respect to each service they offer, promote, or gift to a Builder/Property Developer as part of a Project, that they are solely responsible for any and all services provided; and that they are compliant with all Applicable Laws when offering, promoting and gifting their services as part of the Project to Builders/Property Developers.
- 5.11 Nothing in this clause 5 or these Terms of Use renders us a party to any Project Contract. We do not supply or receive services under the Project Contract and are not responsible for the either party's performance under the Project Contract.
- 5.12 A Builder/Property Developer is not bound to accept a Project Proposal received from a Consultant. Consultants have no obligation to submit any Project Proposals or accept any offers from Builders/Property Developers.
- 5.13 Consultants can direct any questions in relation to a Project Post to the relevant Builder/Property Developer via the chat functionality on the Website.

6. Identity Verification

- 6.1 We may include information to help Users to verify the identity of other Users ("**Identity Verification**"). This information may include: integration and verification with social networking sites such as LinkedIn and verification of payment information.
- 6.2 You agree that the Identity Verification may not be fully accurate as all Website Services are dependent on

User-supplied information and/or information provided by third parties.

6.3 Users are solely responsible for identity verification and we accept no responsibility for any information provided as part of the Identity Verification.

6.4 Our processes used for Identity Verification may be modified at any time.

7. Privacy

7.1 When operating the Website, we will collect, handle and use your Personal Information in accordance with our Privacy Statement – see [Gantt.com/policy](https://gantt.com/policy).

7.2 By registering a User Account, you acknowledge that you have read our Privacy Statement and consent to our collection, use and disclosure of your personal information in accordance with our Privacy Statement.

8. Registered User Conduct

8.1 Your access to, and use of, the Website is subject to all conditions specified in these Terms of Use. If you breach any such conditions, we will be entitled to take any reasonable action, including terminating your User Account or taking legal action against you, in our sole discretion.

8.2 You must comply, and are solely responsible for complying, with Applicable Laws. Subject to any law to the contrary, we do not otherwise guarantee or warrant that your proposed or actual use of the Website including entering into a Project Contract, complies with Applicable Laws that may apply to your activities on the Website.

8.3 You agree that you will not:

- a. use the Website for any purpose that is illegal, unlawful or prohibited by these Terms of Use;
- b. interfere or attempt to interfere with, or obtain or attempt to obtain unauthorised access to, the proper working of the Website or any Content, including (without limitation) through:
 1. hacking or use of automated devices, scripts or bots;
 2. destructive transmission of viruses, malware or any code or other conduct of a disruptive or destructive nature;
 3. reverse engineering, circumventing, damaging, disassembling, attempting to discover the source code; or
 4. other illegitimate means;
- c. contact Users of the Website Services for the purpose of sending unsolicited offers, advertisements, spam, junk e-mails;
- d. contact Users for the purpose defaming, abusing, threatening or defrauding Users;
- e. impersonate any entity or falsely claim an affiliation with any person or entity;
- f. scrape or otherwise obtain any data from the Website for any purpose or use any Content to spam third parties; or
- g. contribute or distribute any User Content via the Website that infringes Applicable Laws or any other legislation or regulations of any applicable jurisdiction (including without limitation the

jurisdiction in which you are using the Website). You agree that any legal consequences arising from a claim or action for infringement of any such legislation or regulation based on contributing or distributing User Content via the Website are your sole responsibility and you are wholly liable for such claims or actions.

- 8.4 You warrant that your User Content does not contain any:
- a. offensive, defamatory, obscene, blasphemous, hateful, violent, bullying, discriminatory or threatening language, or content that creates a risk of personal injury or property damage or makes any threat to people or public safety;
 - b. illegal, false, fraudulent, misleading or deceptive conduct, including but not limited to blackmail, extortion, financial or personal scams and attempts to impersonate others;
 - c. Content that infringes the personal or proprietary rights of others, including but not limited to Intellectual Property rights and rights to privacy; or
 - d. spam, publicity or promotion of commercial activities or commercial content not specifically authorised by us with our prior written consent.
- 8.5 You are solely responsible for any uploading or sharing of User Content on the Website in accordance with clause 10. By contributing User Content to the Website, you must not infringe the rights (including Intellectual Property rights) of any other User or third party or act in a way that constitutes a breach of any agreement you may have with any person. Subject to clause 12, we are not responsible or liable for any User Content that is uploaded to, shared via, displayed on or transmitted via the Website that does not comply with these Terms of Use.
- 8.6 You must have the right to purchase or provide Project Services under a Project Contract. Builders/Property Developers warrant and agree that they hold any and all necessary permits and licenses. You must comply with your tax obligations in relation to any benefits received under a Project Contract.
- 8.7 You warrant to us that you have the full capacity to provide the warranties regarding User Content set out in this clause 8, clause 9 and elsewhere in these Terms of Use.

9. Uploading User Content and Reviews

- 9.1 You agree to share or upload Content (including Project Content) to the Website only if all of the following conditions are met:
- a. you are the owner of all Intellectual Property rights in the Content ("**Content IP**") and can license the use of the Content IP to us in accordance with clause 10.4;
 - b. if you are not the owner of the Content IP, you have all necessary licenses, permissions and consents to upload the Content containing Content IP to the Website and license the use of the Content IP to us in accordance with clause 10.4; and
 - c. if the Content contains any Intellectual Property owned by a third party ("**Third Party Content IP**") in conjunction with the Content IP, you have all necessary licenses, permissions and consents to upload the Content containing Third Party Content IP to the Website and license the use of the Third Party Content IP to us in accordance with clause 10.4.
- 9.2 We retain the right (without providing any notice to you) to remove, block, edit or monitor the User Content, at our sole discretion.

- 9.3 After a Project is completed, Registered Users may leave public reviews and submit star ratings (collectively, “**Reviews**”) about the Registered User they worked with on a Project. Reviews will reflect the opinion of the individual Registered User.
- 9.4 You must not manipulate the Reviews in any manner, such as instructing another Registered User to write a positive or negative Review about another Registered User.
- 9.5 We are not responsible for any User Content (including Reviews) that is created, uploaded or submitted to, or otherwise appears via, the Website. We do not endorse, support, represent or guarantee the accuracy, completeness or reliability of User Content appearing on the Website. Also, we do not endorse or represent the views of opinions contained in any User Content.

10. Intellectual Property

- 10.1 The Intellectual Property subsisting in any aspect of the Website including without limitation text, graphics, artwork, logos, software, trade marks, designs, copyright, compilations, algorithms, source code, video recordings and audio recordings, as well as the structure, layout, user interface and “look and feel” of the Website, but excluding User Content (“**Website IP**”), is exclusively owned and controlled by us and/or our third party affiliates, licensors and/or licensees, and is protected by Australian and international law governing intellectual property rights. The Website IP remains our exclusive property throughout the world in perpetuity.
- 10.2 You are not permitted to save, download, reproduce, display, copy, alter, conceal, adapt, perform, transmit, broadcast, sell, license or otherwise exploit any Website IP unless you have express prior written authorisation from us. Any unauthorised use of Website IP by Users is strictly prohibited.
- 10.3 Subject to the rights granted to us under clause 10.4, you will retain exclusive ownership and/or control of any Intellectual Property subsisting in any User Content which you share via, or submit or upload to, the Website.
- 10.4 Notwithstanding clause 10.3, you hereby grant to us a perpetual, non-exclusive, fully paid, royalty-free, transferable, sub-licensable, non-revocable, unlimited, worldwide licence to reproduce, exploit, use, copy, reproduce, process, adapt, modify, publish, transmit, display and distribute any User Content which you share via, or submit or upload to, the Website, in any and all media, at our sole discretion.

11. Consumer Guarantees and Disclaimers

- 11.1 Where you acquire our Website Services as a Consumer, we will provide our Website Services to you in accordance with any Consumer Guarantees under the ACL. Nothing in these Terms of Use overrides, excludes, limits or otherwise restricts any Consumer Guarantees applicable to you under the ACL, to the extent that they do, this clause 11.1 will prevail.
- 11.2 Where you do not acquire our Website Services as a Consumer, or clause 11.1 does not apply, then to the extent permitted by law:
- a. we do not guarantee or warrant that the Website Services will be suitable or fit for any particular purpose, including the purpose for which the Services are ordinarily provided;
 - b. we do not guarantee or warrant that access to and use of the Website will be uninterrupted and fault-free at all times;
 - c. we do not provide any guarantee or warranty that you may view, access or use the User Content via the Website without infringing the Intellectual Property rights of a third party or for any incomplete, inaccurate, incorrect or out-of-date information in User Content on the Website; and

- d. we otherwise exclude any term, condition or warranty that may otherwise be implied into these Terms of Use or otherwise relating to our Website Services.

11.3 In addition to clause 11.2, and subject at all times to clause 11.1, you acknowledge and agree that:

- a. we not a party to any Project Contract entered into on the Website, and is not involved in providing Project Services in any capacity whatsoever. Accordingly, we do not warrant or guarantee any of the following: that you will find suitable Consultants for your Project, that the supply of any Project Services will compliant with Applicable Laws; the provision or non-provision of Project Services; that the Project Services will be fit for purpose or any other characteristic of Project Services for your Project; that Consultants will enter into Project Contracts; the quality, timeliness or appropriateness of Project Services or the performance of any Project Contract entered into on the Website;
- b. we do not recommend or endorse any particular Consultant and do not provide any advice regarding the fitness for purpose of any Consultant and Builders/Property Developers must exercise their own due diligence on all Consultants before engaging a Consultant to provide Project Services;
- c. Consultants are not employed or sub-contracted by us or any associate or employee or director or agent of us to provide Project Services to Builders/Property Developers;
- d. all Projects are offered by Builders/Property Developers and not us, and all Project Services are provided by Consultants and not us; and
- e. we are not responsible for any conduct of any User which occurs outside the Website, including the supply of any Project Services.

11.4 The Website may integrate with or host hyperlinks to third party web services, or host third party information or content within the Website. All third party content hosted on the Website is the responsibility of its author, and we do not endorse or represent the views or opinions contained therein. We are not responsible for any material contained on third party web services that is hosted on the Website in any way, and any dealings between you and third parties is your sole responsibility.

12. Liability

12.1 If you are a Consumer, our liability to you for any Loss or Claim suffered as a result of us failing to comply with any Consumer Guarantees in relation to the Website Services during the relevant period (“**Affected Period**”) is limited at our election to the resupply of the Website Services for a period equivalent to the period of the breach, or payment of the cost of resupply of the Website Services equivalent to Affected Period.

12.2 Subject to clause 11.1 and any liability we may have to you under clause 12.1, and to the extent permitted by law, us and our Representatives exclude, and you hereby release us and our Representatives from, all liability (whether arising under these Terms of Use, tort, negligence, statute or in any other way) for all Loss and Claims of any kind whatsoever directly or indirectly sustained by you in relation to any of the following matters (“**Website Matters**”):

- a. your use of, or inability to use, the Website including entering into a Project Contract or participating in a Project;
- b. a failure by a party to a Project Contract, to comply with the terms of that Project Contract;
- c. any failure by us or other third parties to provide any information, service, feature or functionality

via the Website;

- d. any unauthorised submission of information to the Website;
 - e. statements or conduct of any third party using the Website;
 - f. use of third-party services in conjunction with the Website by you;
 - g. any communication or interaction between Users via the Website, whether online or offline;
 - h. a failure by another User you interact or deal with via the Website to comply with these Terms of Use;
 - i. any User Content that is uploaded, submitted, or otherwise appears, via the Website;
 - j. where you fail to comply with any Applicable Laws when using the Website;
 - k. where you fail to comply with any Applicable Laws or the Privacy Act when dealing with Personal Information in connection with the Website; and
 - l. anything outside the reasonable control of us including without limitation natural disasters, acts of God, equipment or infrastructure failure, civil riots, war (include cyber attacks), strikes, data breaches, viruses or malicious code.
- 12.3 To the extent that any limitations of liability contained in these Terms of Use are ineffective or if any warranties are implied by law that cannot be excluded, then to the maximum extent permitted by law, our total aggregate liability to you is capped at the total monies you have paid (subject to deductions for refunds received) to any User or otherwise via the Website in the 12 month period prior to the limitation being ineffective or warranty not being able to be excluded.

13. Indemnity

- 13.1 As a further condition of using the Website, you must indemnify us against all direct, quantifiable and reasonable Loss suffered by us and/or our Representative (whether based in negligence or any other tort, contract, statutory liability or otherwise) as a result of you breaching these Terms of Use, or otherwise from your use of Website or the Website Services.
- 13.2 Builder/Property Developer and Consultants may consider obtaining and maintaining the necessary amount of insurance cover (including but not limited to public liability insurance) appropriate to his or her obligations under these Terms of Use and Applicable Laws, or otherwise as required by law.

14. Termination

- 14.1 We may terminate or suspend your access to the Website at any time, at our sole discretion and without notice to you effective immediately if we have reason to believe that you have failed to comply with these Terms of Use. For any other reason, we will give you 14 days' prior written notice.
- 14.2 You may terminate these Terms of Use by ceasing to use the Website and sending a request in writing to us (sent to info@gantted.com) for the suspension of your User Account.
- 14.3 Upon termination, you will no longer have access to the functionality of the Website that requires a User Account. We will be under no obligation to store the User Content contributed through your User Account or provide you with further access to such User Content.

14.4 Notwithstanding clauses 14.1 to 14.3:

- a. any Personal Information or non-personal statistical information collected under these Terms of Use and the Privacy Statement may continue to be stored, used or disclosed within the scope of the purposes described in the Privacy Statement; and
- b. we may store any User Content on our servers at our discretion, whereby our rights under clause 10.4 will continue in perpetuity.

15. Jurisdiction & Choice of Law

15.1 These Terms of Use are governed by and construed in accordance with the laws of the State of Victoria, Australia without giving effect to any conflict of laws principles. Any claim, cause of action or dispute arising out of these Terms of Use will be resolved exclusively in the courts of Victoria, Australia, and where applicable, the Federal Court of Australia or Federal Circuit of Australia, and you agree to submit to the personal jurisdiction of such courts for the purpose of litigating such claims.

16. Complaints and Dispute Resolution

- 16.1 If a Builder/Property Developer and a Consultant have a dispute in connection with the performance of their respective obligations under a Project Contract, we expressly disclaim any responsibility or liability in relation to such disputes. Subject to the aforementioned, we may, but we are not obliged to investigate, assist or involve ourselves in such disputes, at the specific request of Builder/Property Developer or a Consultant. In the event that we investigate, assist or otherwise involve ourselves, both parties will jointly and severally indemnify us against any and all costs and expenses incurred by us in relation to our investigation, assistance or involvement of the dispute.
- 16.2 Registered Users may report inappropriate or infringing User Content on the Website or other breaches of these Terms of Use by other Registered Users to us. All Registered Users agree to in good faith, assist us, provide us with the information that we require, and do such other things reasonably necessary to enable us to investigate the complaint and to take appropriate action to enforce these Terms.
- 16.3 Any complaints about us or a disputes with us in relation to these Terms of Use or the Website Services (“**Dispute**”) by a Registered User must first be dealt with in accordance with clauses 16.3 to 16.5, before commencing any court or arbitration proceedings other than for urgent interlocutory relief.
- 16.4 The Registered User must give us written notice at info@gantted.com of the dispute adequately identifying and providing details of the Dispute (“**Dispute Notice**”). Notwithstanding the existence of a Dispute, both parties shall continue to perform their obligations under these Terms of Use.
- 16.5 If a Dispute is not resolved by agreement within 20 business days of us receiving a Dispute Notice, either party may refer the Dispute to confidential mediation to be conducted by an independent mediator appointed by agreement between the parties, or failing agreement within 30 business days of us receiving the Dispute Notice, by a person appointed by the Chair of Resolution Institute, (ACN 008 651 232, Level 2, 13-15 Bridge Street, Sydney NSW 2000; telephone: 02 9251 3366, email: infoaus@resolution.institute) or the Chair’s designated representative. The Resolution Institute Mediation Rules shall apply to the mediation unless otherwise agreed. The costs of the mediator shall be borne equally between the disputing parties.

17. Miscellaneous

- 17.1 All prices shown on the Website are in Australian dollars and exclusive of GST. All prices are subject to change.
- 17.2 We reserve the right to perform maintenance of the Website (whereby the functionality of the Website

may not be accessible for a certain period of time) without notice to you.

- 17.3 From time to time we may run promotions or offer discounts or benefits of any one or more Users subject to additional terms and conditions which shall prevail in the event of any inconsistency over these Terms of Use. We reserve the right to offer, withdraw, change, cancel or determine the eligibility for any such promotions, discounts or benefits.
- 17.4 If we are involved in a sale, merger or other restructuring, it may need to assign its position under these Terms of Use to a third party, which it will have the right to do so at its sole discretion. We will also have the right to assign its position under these Terms of Use in other circumstances with your written consent. You may assign your position under these Terms of Use to a third party with our prior written consent.
- 17.5 The rights and obligations under these Terms of Use, which by their nature would reasonably continue beyond the expiration of termination of these Terms of Use, will survive the expiration of termination of these Terms of Use. Without limiting the generality of the foregoing, clauses 10, 11, 12 and 13 will survive the termination of these Terms of Use.
- 17.6 In the event that any one or more of the provisions contained in these Terms of Use would, for any reason, be held to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect any other provisions of these Terms of Use and these Terms of Use shall be construed as if such provisions had never been contained herein.
- 17.7 The fact that a party fails to do, or delays in doing, something the party is entitled or obligated to do under these Terms of Use, does not amount to a waiver of any obligation of, or breach of obligation by, any other party.
- 17.8 If you, as a Builder/Property Developer or Consultant, fail to comply with the terms of a Project Contract and do not have a lawful excuse for such failure, then in addition to our rights under these Terms of Use to suspend or terminate any User Account, you may also be in breach of your obligations to both us and the Builder/Property Developer or Consultant with whom you are transacting under the Project Contract.

18. Definitions and Interpretation

- 18.1 The following definitions apply in these Terms of Use:

“ACL” means the Australian Consumer Law, being *Schedule 2 of the Competition and Consumer Act 2010 (Cth)*.

“Applicable Laws” means any and all applicable laws, statutes, regulations, instruments and by-laws and all other subordinate legislation or orders made by any authority with jurisdiction over any Project Contracts, and use of the Website by Registered Users.

“Awarded Project” has the meaning provided in clause 5.6.

“Builder/Property Developer” means a Registered User who is a Builder/Property Developer.

“Category” or **“Categories”** means the different categories (as defined by Gantt) in which Project Services offered by Consultants are classified on the Website, and which may be updated by Gantt from time to time.

“Claim” mean any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature, whether present or future, fixed or unascertained, actual or contingent, at law, in equity, under statute or otherwise.

“Consultant” means a Registered User who is a Consultant.

“Consumer” is a “Consumer” as defined under the ACL.

“Content” means all content on the Website including without limitation text, photographs, logos, names, designs, information, Personal Information, financial information, data, drawings, URL links, video recordings and audio recordings.

“Directory” has the meaning provided for in clause 5.1.

“GST” is as defined in GST Act; **“GST Act”** means *A New Tax System (Goods and Services) Act 1999* (Cth); and **“GST Laws”** means the GST Act and all related subsidiary regulations.

“Guests” means people who visit, view, browse, access or otherwise have limited use the Website but who are not Registered Users.

“Intellectual Property” means all intellectual property and quasi-intellectual property rights (past, present and future) conferred by law (whether registered or unregistered) including without limitation business names, trade marks, patents, designs, copyright, trade secrets, computer programs, databases, inventions, moral rights and all proprietary rights and all other intellectual property defined in Article 2 of the Convention Establishing the World Intellectual Property Organisation (July 1967).

“Loss” means loss, damage, liability, charge, expense, payment or cost of any nature or kind, including all legal and other professional costs (calculated on an indemnity basis).

“Payment Method” means valid payment details for credit cards/debit cards, or any other payment methods such as PayPal accounts or direct debit arrangements through nominated bank accounts, available from time to time on the Website.

“Personal Information” means any information or opinion which can reasonably identify an individual.

“Website Services” means the services listed in clause 0 and any subsidiary services provided by us via or in relation to the Website from time to time.

“Privacy Act” means the *Privacy Act 1988* (Cth) as amended from time to time.

“Privacy Statement” means the Privacy Statement for the Website as amended or updated from time to time, a copy of which can be found on the following webpage: gantt.com/policy.

“Project” means an building or construction project owned or operated by a Builder/Property Developer and which is posted on the Website for Consultants to submit Project Proposals, or Builders/Property Developers to otherwise negotiate to work together for the purpose of the Builder/Property Developer finding appropriate Consultants to supply Project Services.

“Project Contract” means an agreement between a Builder/Property Developer and a Consultant for the provision of services by a Consultant to the Builder/Property Developer in relation to a Project. The Project Contract is a separate legal document entered into by the parties after the date of an Awarded Project.

“Project Post” has the meaning specified in clause 5.2.

“Project Proposal” has the meaning provided in clauses 5.3 and 5.4.

“Registered User” means a user who has registered an account on the Website. A Registered User may be

a Builder/Developer or a Consultant.

“Representatives” means our directors, officers, contractors, employees, consultants, or other affiliates.

“Users” includes Registered Users and Guests.

“User Account” has the meaning provided in clause 1.1.

“User Content” means any Content shared via, or submitted or uploaded to, the Website by a User, and includes without limitation, Project Posts and Project Proposals, and any Content uploaded for the purposes of a Project Post or Project Proposal.

18.2 In these Terms and Conditions, except where the context otherwise requires:

- a. The singular includes the plural and vice versa;
- b. Words such as including or for example do not limit the meaning of the words preceding them;
- c. A reference to a document includes the document as assigned, novated, altered, supplemented or replaced from time to time;
- d. Parties must perform their obligations to us, and we will perform our obligations, on the dates and times fixed by reference to Melbourne, Victoria. We recommend that the Builder/Property Developer and Consultant’s obligations under a Project Contract be determined with reference to the dates and times fixed by reference to the local Australian state or territory applicable to the Builder/Property Developer and Consultant to said Project Contract;
- e. A reference to any party to these Terms and Conditions, includes that party’s executors, administrators, successors and permitted assigns and substitutes;
- f. A reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- g. A reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re enactments or replacements of any of them;
- h. A rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this Agreement or any part of it; and
- i. An obligation or liability assumed by, or a right conferred on, two or more parties binds or benefits them all jointly and severally.