

Gtee Terms and Conditions

These terms govern your use of Gtee. Gtee reserves the right to modify or change these terms of use at any time by posting the new terms on the Gtee website. Your use of the Gtee Service constitutes your acceptance of the currently advertised terms of use.

1. DEFINITIONS & INTERPRETATION

a. **Definitions:** In these terms of use –

Agreement means the principal agreement between GTEE Limited and the Account Holder, by which the Account Holder subscribes to the Gtee Service in accordance with the specified terms & conditions;

Account Holder means the person or entity who has entered into the Agreement with GTEE Limited and who has authorised you to access the Gtee Service;

Authorised User means a user who has been authorised to access and use the Gtee Service for the Permitted Purpose;

Business Day means any day of the week, other than a Saturday, Sunday or a statutory holiday in Wellington, New Zealand;

Business Hours means the hours between 9:00am and 5:00pm on a Business Day;

Charges means the charges associated with your use of the Gtee Service;

Documents includes each of a [Building Contract], Product Warranties and Guarantees, Maintenance Information, Product Overview;

Information means any data, information, text, images, or other material contained within or sourced from the Gtee Service, including any property information, generated reports, photos and Documents;

Intellectual Property or **IP** means all rights and interests in and to the trade marks, inventions, patents, designs, copyrights, moral rights, plant variety rights, database rights, know-how, data and confidential information, business names, trade names, service marks, trade dress and livery, domain names, layout designs, software (including, without limitation, in source and object codes) and any similar rights in any part of the world, including any registration of such rights and applications for such registrations;

Gtee Service means the web-based property information service provided by GTEE Limited and accessed from the website [www.gtee.co.nz];

Related Company has the meaning given to that term in section 2(3) of the Companies Act 1993;

Suspension Event has the meaning given to that term in clause 5 of these terms of use;

Gtee means GTEE Limited, and “we”, “us” and “our” has a corresponding meaning;

you means the Authorised User who is accessing and using the Gtee Service, and “your” has a corresponding meaning.

b. **Interpretation:** In these terms of use –

- words importing the singular include the plural and vice versa;
- the terms “including”, “includes” and “include” include the words “without limitation” after those terms;
- a reference to a person includes a company, other corporations and also a body of persons (corporate or unincorporated);
- where words or expressions are defined, other parts of speech and grammatical forms of that word or expression have corresponding meanings;
- headings are for ease of reference only and do not affect the interpretation of this Agreement;
- a reference to dollars or \$ is a reference to New Zealand currency; and
- the meaning of general words is not limited by specific examples introduced by including or similar expressions.

2. SUBSCRIPTION

- a. In order to access the Gtee Service, you will need to register your subscription by completing our registration application process.
- b. We may decline your registration application for any reason, without explanation. In this case, you will not be entitled to access or use the Gtee Service. If we accept your application, we will provide you with a password (will provide confirmation by email) which will result in the formation of a contract between us and you.
- c. You warrant that all information submitted by you to us as part of the registration application process is true and accurate. You undertake to at all times update your registration details if and when they change.
- d. Your subscription for the Gtee Service will commence on the date that your access to the Gtee Service is established.
- e. The subscription is for a minimum period of 12 months subject to clause 5.
- f. **Early Termination:** Should you elect to terminate your subscription within sixty (60) days of subscription, we will refund your subscription fee. There will be no refunds provided after this time.
- g. **Automatic Renewals:** Following the expiry of twelve (12) months after the date of the Initial Subscription Period (being the period of twelve (12) months since confirmation of subscription) your subscription will be automatically renewed on an annual basis. We will send you an email and a text notifying you that your subscription will be renewed, no less than two (2) weeks before the renewal date. We will bill you for the renewal using the same payment details as the previous year. You have the option to cancel your renewal at any time before this renewal occurs.

3. PAYMENT OF FEES

- a. On registration you agree to pay for the Gtee Services at the listed price and to make payment within agreed timeframes (by the 20th of the month following the date of invoice).
- b. “Price” means the price for the Gtee Services confirmed by us in writing together with any variations agreed to in writing.

- c. You will pay us for the Gtee Services the fees at the times and in the manner set out in the invoice or any other document evidencing or describing any Gtee Services to be supplied to you (time being of the essence).
- d. The Price shall be increased by the amount of GST and/or other taxes and duties which may be applicable, except to the extent that such taxes and duties are expressly included in any quotation provided to us.

4. LICENCE & USE

- a. **Licence:** In accordance with the Agreement by becoming a member, Gtee grants you a non-exclusive, non-transferable, non-sublicensable licence to access and use the Gtee Service during the term of the Agreement, for the permitted use.
- b. **Permitted use:** You may use the data for your own lawful business or professional purposes, including Gtee database backups.
- c. **Prohibited use:** You must not access or use the Gtee Service for any purpose other than the Permitted Purpose. Examples (without limitation) of prohibited uses are:

5. SUSPENSION AND TERMINATION

- a. **Suspension:** We may at our discretion suspend your access to the Gtee Service if one of the following circumstances exist (Suspension Event) or otherwise as we see fit, until such time as, in our reasonable opinion, the suspension is no longer required:
 - we become aware of any breach of these terms and conditions by you;
 - the fees associated with your use of the Gtee Service are overdue.
- b. **Effect of suspension:** You will cease to have access to the Gtee Service for the period of suspension.
- c. **Termination:** The Account Holder may terminate the Agreement by giving us at least 3 months' prior written notice. We may terminate the Agreement immediately on written notice to the Account Holder in certain circumstances (as set out in the Agreement), or for any other reason by giving the Account Holder at least 1 months' prior written notice. On termination of the Agreement, the licence granted under the Agreement (and these terms of use) shall terminate immediately. You will cease to have access to the Gtee Service from the termination date.
- d. On termination:
 - your rights to access and use the Gtee Service will cease;
 - any fees invoiced by us, or which we were entitled to invoice, on or prior to the date of termination, but which have not been paid, will remain payable in accordance with clause 3;
 - the termination will be without prejudice to either your or our rights and remedies in respect of any breach of these Terms and Conditions by the other, where the breach occurred before the termination.
- e. **Breach by an individual:** Any breach of these terms of use by you will be deemed to be a breach of the Agreement by the Account Holder. For avoiding doubt, if an individual Gtee user breaches these terms of use, the principal (as the Account Holder) will be held liable.

6. DISPUTED ACCOUNTS

- a. If you believe that an invoice contains a mistake you must contact us as soon as possible and we will investigate. All disputes must be submitted in writing clearly detailing the actual dispute. You must pay any undisputed amount by the Payment Date.
- b. You will need to notify us within 90 days of receiving an invoice of any dispute. We will not accept a dispute greater than 90 days after the invoice on which that disputed item is charged.
- c. If we agree that there is a mistake, we will correct the invoice as soon as reasonably possible. If we don't agree and there is no mistake, you must pay the outstanding amount immediately on being notified of our finding, or on or by the Payment Date, whichever is the later.

7. CREDIT ARRANGEMENTS

- a. We are not obliged to begin providing the Gtee Services to you until we have satisfied ourselves that you will be able to pay the Charges. If we have already commenced providing Services to you and we then receive an unsatisfactory credit check, we may stop providing any Services. You agree that we may pass on your information to credit reporting organisations so that they can run credit checks on our behalf at any time. We may also let those organisations know if you have not paid our Charges. You agree that at any time those organisations may pass on to us information about you that they may hold. We will use that information to make decisions about providing or continuing to provide you with Services. You also agree that those organisations may keep any information about you that we have passed on to them and use it for the purposes of their businesses, which may include supplying it to other entities that use their services. In respect of our access to and use of such information, we will comply with the Privacy Act 1993.
- b. Where required by our credit policy, we may at any time require you to make an advance payment or provide some other form of security to cover amounts payable by you under this Agreement. If this Agreement is terminated, we will return to you any security not required to cover outstanding amounts.

8. DOWNLOADING AND STORING DOCUMENTS

- a. **Downloading documents:** You may use the Gtee Service to upload and store Documents.
- b. **Download and Storage fee:** You will be charged an annual fee for downloading and storing Documents, at the time of the order. The applicable fee will be specified on the Gtee website. You will be required to enter your credit card details to complete the order, unless billing arrangements for Documents have been made direct with Gtee.
- c. **Support Included:** Gtee will provide telephone and email support which will include queries concerning the document, and will be available during Business Hours by Gtee emailing mark@gtee.co.nz] or phoning toll free on 0800 891 383. This support does not include locating documents where the document reference is unknown.

9. INTELLECTUAL PROPERTY RIGHTS

- a. **Ownership of IP:** Gtee and its licensors own all rights (including Intellectual Property rights) in the Gtee Service. The Agreement does not confer any ownership or proprietary right on you. You must not, nor may you permit any other person to:
 - i. alter, remove, or tamper with any Intellectual Property used in association with the Gtee Service (including any Information); or
 - ii. do any act that would or might invalidate or be inconsistent with Gtee and its licensors' Intellectual Property rights.

- b. **Protection of IP:** You must adhere to any security protocols advised by the Account Holder, Gtee or Gtee's licensors for the purpose of protecting Gtee's (and its licensors') Intellectual Property against unauthorised use and disclosure.

10. DISCLAIMER

- a. **No warranty:** You acknowledge that the Information used to provide the Gtee Service is accumulated from a number of third parties, territorial authorities and other sources. While all reasonable endeavours will be used to provide up to date and accurate Information, all representations or warranties in relation to that Information and the Gtee Service, including the completeness, accuracy, fitness for purpose or otherwise, are excluded to the extent permitted by law.

Further, Gtee gives no warranties that the Gtee Service or the Information (i) is compatible with and capable of being processed on your computer equipment or software, or (ii) will be free from infection, viruses or destructive code.

- b. **Availability:** We will use our best endeavours to make the Gtee Service available 24 hours a day, 7 days a week, subject to any routine, planned and unplanned maintenance or other outage. We will endeavour to give you advance notice of any routine or planned maintenance. We are not liable to you for any non-availability of the Gtee Service.
- c. **Modification etc:** We may change, modify, restrict access to, suspend or discontinue any parts of the Gtee Service at any time without notice or liability to you.

11. LIABILITY

- a. Where you are acquiring any Services for the purposes of a business, you will not assert or attempt to assert any rights or claims against us under the provisions of the Consumer Guarantees Act 1993 in respect of the supply of those Services.
- b. No claim for damage, loss or injury direct or indirect against us in respect of any Services supplied by us shall in any case exceed either the re-supply or the cost of re-supply of the Services giving rise to the claim against us and we reserve the right to elect either option at our absolute discretion.
- c. Notwithstanding any other clause in this Agreement, we will not be liable to you in tort (including negligence), contract or otherwise for any economic loss, loss of profit, loss of savings, loss of anticipated profit or savings, or for any indirect, special or consequential loss or damage, however caused, whether arising in relation to the supply or non-supply of any Services, any breach by us of this Agreement or otherwise.
- d. Apart from the warranties expressly given to you in this Agreement, all other warranties, express or implied, are excluded (to the extent permitted by law).
- e. You will indemnify us against all claims of any kind whatsoever however caused or arising (including without limitation all sums paid to compromise or settle claims, proceedings and actions out of court) brought by any person in connection :
- any use by you of the Services other than in the manner contemplated by this Agreement; or
 - any failure by you to meet your obligations under the Agreement.
- f. You will reimburse us on demand for any expenses, disbursements and legal costs incurred by us in the enforcement of any of our rights contained in this Agreement (including any reasonable solicitor's fees and debt collection agency fees) where we are enforcing those rights as a result of your non-compliance with any of your obligations under this Agreement.

- g. You acknowledge that you have not relied on any representation by us or any of our employees or agents as to the fitness for purpose, suitability or features of any Service, except where such representations are recorded in the relevant Application Form or this Agreement.

12. LIMITATION OF LIABILITY

- a. **Limitation of liability:** Gtee shall have no liability or responsibility to you for any loss (including consequential loss of business or profits or profits or other loss), damage or injury whether arising in contract, tort, equity or otherwise suffered or incurred, whether or not due to any circumstance within or outside the control of Gtee. Where any liability cannot be excluded at law, then the liability of Gtee shall be limited to the value of any Charges paid under the Agreement in the preceding 12 month period.

13. DISPUTE RESOLUTION

- a. If any dispute arises out of this Agreement, neither party is to commence proceedings relating to the dispute (except where urgent interlocutory relief is sought) unless that party has first complied with this clause 12.
- b. A party claiming a dispute has arisen is to give written notice to the other party specifying the nature of the dispute. On receipt of that notice, the parties will use all reasonable endeavours to resolve the dispute by discussion, negotiation or other informal means.
- c. If the parties do not resolve the dispute within 10 working days of the receipt of the notice then either party can, by writing to the other, require that the dispute be mediated in accordance with the standard mediation agreement of LEADR New Zealand, and the then current Chair of LEADR New Zealand will select the mediator and determine the mediator's fee.

14. PRIVACY

- a. **Our use of personal information:** Gtee is an Agency for the purposes of the Privacy Act 1993. All personal information you supply to Gtee will be dealt with by Gtee in accordance with that Act. Gtee may from time to time send you information on selected products and services and invite others to do so. Should you not wish to receive this material, email your request and contact details to mark@gtee.co.nz. You are deemed to have given your permission to Gtee to convey all or part of your registration information to independent auditors for the purpose of verifying site usage statistics. As part of the verification process, you may be contacted by these independent auditors and asked to confirm that you have registered for the Gtee Service. Accordingly, you may not register any personal information other than your own.

You acknowledge that personal information (including user name protocol information) may be passed by Gtee to its Related Companies, suppliers or other third parties for the purposes of providing you with the Gtee Service. You have the right to access your personal profile and correct any of your personal information recorded.

- b. **Your use of personal information:** You are responsible for ensuring that your use of any personal information contained within the Gtee Service is in compliance with the Privacy Act 1993.
- c. **Username and password:** You must keep your username and password for the Gtee Service private and not provide them (or allow them to be provided) to any other person without our prior consent in writing.

15. ELECTRONIC MESSAGES FROM GTEE

- a. **Electronic messages:** You consent to receiving electronic messages from Gtee from time to time which market or promote Gtee's goods and services. Gtee will cease to send you such electronic messages if at any time you instruct us to do so in writing. Gtee will include a functional unsubscribe facility in any electronic messages sent to you which market or promote Gtee's goods and services.

16. ENTIRE AGREEMENT, VARIATION AND CONFLICT

- a. This Terms and Conditions contains all the terms, representations and warranties made between the parties and supersedes all prior discussions and agreements covering the subject matter of the Gtee Service.
- b. No variation or waiver of any provision of these Terms and Conditions shall be recognised or binding on us unless it is in writing and signed by our authorised representative.
- c. We may amend these standard terms and conditions at any time. This will vary our agreement with you. When we do this we will make a copy of the amended standard terms available to you on our website at www.gteeco.com. The amendments we make will apply seven (7) days after we make the amended terms available to you.
- d. We may interpret your ongoing use of the Gtee Service after that date as constituting your acceptance of the amendments.

17. ASSIGNMENT

- a. You may not assign all or any of your rights or obligations under the Gtee Service without our written consent (such consent not to be unreasonably withheld).
- b. We reserve the right to assign our rights under the Gtee Service without your consent.

18. FORCE MAJEURE

- a. Notwithstanding any other provision in these Terms and Conditions, neither party is liable to the other for failing to meet any of its obligations under this Agreement to the extent that the failure was caused by an act of God or other circumstance beyond that party's reasonable control.
- b. Nothing in clause 18 a shall release you from any obligation to make payment of sums owing to us when those sums are due and owing to Gtee under these Terms and Conditions.

19. NON-WAIVER

- a. If either party delays or fails to enforce any of its rights or remedies under the Terms and Conditions, this will not constitute a waiver by that party of that or any other right or remedy available to it.

20. TERMS SEPARATELY BINDING

- a. Each term of this Agreement is separately binding. If for any reason either party cannot rely on any term, all other terms remain binding.

21. APPLICATION OF THESE TERMS AND CONDITIONS

- a. We each acknowledge that you may receive other services from Gtee in respect of which specific terms and conditions (whether separately negotiated with us, or generally applicable in respect of that category of goods and services) might apply. In the event that such terms and conditions do not deal with any particular matter, the terms and conditions set out herein shall apply.

22. GENERAL

- a. **Governing law:** These terms of use will be governed by and construed in accordance with the laws of New Zealand, and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand.
- b. **Assignment by you:** You may not assign, transfer, or otherwise dispose of any benefits, rights, liabilities or obligations under these terms of use without our prior written consent, such consent not to be unreasonably withheld.
- c. **Consumer Guarantees Act:** Where you are acquiring the Gtee Service for business purposes, you agree that the provisions of the Consumer Guarantees Act 1993 will not apply.
- d. **Fair Trading Act:** You agree that sections 9, 12A, 13, and 14(1) of the Fair Trading Act will not apply, and that contracting out of these provisions is fair and reasonable.
- e. **Notices:** Unless specified otherwise, all notices given under the Agreement must be in writing and may be given by either party to the other by personally serving it on the party, or by sending it by courier, registered mail or post, or email to the other party at the address set out in the Application Form (or to such other address as the party to be notified may advise for the purpose from time to time). Gtee may also give notice by posting on the Gtee website. Any notice will be deemed to be received:
- if personally served or sent by courier or registered mail, at the time when it was actually delivered;
 - if sent by post, 3 Business Days after the time it was posted to the recipient;
 - if sent by email, at the time the email leaves the communication systems of the sender, provided that the sender does not receive any error message relating to the sending of the email at the time of sending;
 - if posted by Gtee on the Gtee website, at the time of posting,
- provided that if a notice is received by a party on a date that is not a Business Day, or the delivery is made after 5.00pm on a Business Day, then the notice will be deemed to have been received on the next Business Day.
- f. **Changes to these terms of use:** We may modify or change these terms of use at any time by giving notice to you.
- g. **Changes to your details:** You must notify us immediately of any changes to your details.