

FLENA Terms of Use: Published 1st May 2024

These terms and conditions (Terms) are the contract between you as the online membership member (you or your) and The Business Minded Lawyer Pty Ltd ACN 638 149 149 trading as "The Family Law Education Network of Australia" of PO Box 662, Penrith NSW 2571 (us, our or we). By using the Membership platform through the cloud legal practice management software Smarter Drafter (Site), you agree to be bound by the Terms.

Please read this agreement carefully and save it. If you do not agree to be bound by the Terms, you should leave the Site immediately.

1. Definitions

- 1.1. In this agreement, the following words have the following meanings:
 - 1.1.1. Content means the content that is available for you on the Site as part of our Services, including legal templates and precedents drafted by us.
 - 1.1.2. Governing Law means the law of New South Wales.
 - 1.1.3. Membership means your membership of the Site and these Terms. It includes the membership service we provide as set out on the Site and in this contract.
 - 1.1.4. Services means all of the services and/or benefits available with your Membership on the Site, including the Content.
 - 1.1.5. Site means the Membership platform accessed through the cloud legal practice management software Smarter Drafter. In agreeing to these Terms you also agree to be bound by any Terms required by Smarter Drafter or any other third party hosts we use from time to time.
 - 1.1.6. Smarter Drafter means the online cloud legal practice management software that our Membership is provided through.

2. Our contract

- 2.1. These terms and conditions regulate our business relationship with you. By electing to join our Membership Services, you agree to be bound by them. The contract between us comes into existence when we receive payment from you for your Membership.
- 2.2. In entering into this contract, you acknowledge and agree that you have not relied on any representation or information from any source except the definition and explanation of the Services given on the Site.

- 2.3. Subject to these Terms, we agree to provide to you some or all of the Services described on the Site at the prices set out on the Site from time to time.
- 2.4. This agreement shall operate for the period for which you have subscribed to Membership Service and will be on-going until such time as you or we terminate your Membership.

3. Your account and personal information

- 3.1. When you visit the Site, you accept responsibility for any action done by any person in your name or under your account or password. You should take all necessary steps to ensure that your password is kept confidential and secure
- 3.2. You agree to inform us and Smarter Drafter immediately if you have any reason to believe that your password has become known to anyone else, or if the password is being, or is likely to be, used in an unauthorised manner.
- 3.3. You agree that you have provided accurate, up to date, and complete information about yourself to us. We are not responsible for any error made as a result of such information being inaccurate.
- 3.4. You agree to notify us of any changes in your information, such as updated credit card details or other critical personal information immediately once a change occurs. If you do not do so, we may terminate your account at our discretion.

4. Membership

- 4.1. Details of the cost and benefits of Membership are as set out on the Site. You may subscribe to Membership Services at any time on the basis that it is offered through the Site.
- 4.2. You do not have to take any action for these Terms to apply other than electing to be bound by the Membership. By accepting these Terms, you instruct us to give you immediate access to the Membership Services and you know that by doing so, you may not be entitled to a refund of any Membership fees.
- 4.3. You may use the Content for business use, including in the preparation of documents or contracts for clients. Where permitted or intended, you

may modify the language contained in the Content or add your details. However, we can't guarantee any modification will maintain the integrity or original intention of the Content or result in the outcome being the intended use of the Content.

- 4.4. Termination and renewal of your Membership by you will be regulated by your agreement with Smarter Drafter.
- 4.5. We reserve the right to change the Terms of this contract at any time, without notice. If, after such modifications, you continue to use your Membership, we will deem this as your acceptance of the modified Terms.

5. Prices

- 5.1. The price payable for the Membership is set out on the Site. The Membership price may be updated from time to time.
- 5.2. The price charged for Membership will be in Australian Dollars, if you are located in another country, you may be charged international conversion rates and be subject to an exchange rate. You will be required to pay any additional fees in this regard.
- 5.3. Prices are inclusive of any goods and services tax or other sales tax (where it is applicable).
- 5.4. You will pay all sums due under these Terms and your Membership by the means specified without any set-off, deduction or counterclaim.
- 5.5. While we honour the Australian Consumer Law and will refund or exchange faulty goods or services (such as where you cannot access the Content or Services and can prove that you have been unable to access it), due to the nature of the Content or Services being immediately accessible to you upon purchase, no refunds or fees paid by you will be permitted for change of mind.

6. Intellectual property rights

- 6.1. Unless otherwise indicated, we own or licence all rights, title, and interest (including intellectual property) in the Content on the Site and delivered via our Services. For clarity, we retain all ownership of the copyright of the Content in its original form as provided to you.

- 6.2. We grant you a limited, non-exclusive, royalty-free, revocable license to use the Content for the purposes of your business.
- 6.3. You must not, without our prior written consent:
 - 6.3.1. use the Content other than as set out under this agreement;
 - 6.3.2. reproduce, retransmit, distribute, disseminate, sell, publish, broadcast, or circulate the Content in any way whether in whole or in part to any third party; or
 - 6.3.3. breach any intellectual property rights connected with the Content, including (without limitation) by:
 - (a) altering or modifying any of the Content (other than as permitted);
 - (b) causing any of the Content to be framed or embedded in another website or platform; or
 - (c) creating derivative works from the Content.
- 6.4. In the event you have breached Clause 6.3 we reserve the right to claim compensation for unauthorised use and breach of intellectual property law from you.
- 6.5. We do not require you to credit us for your use of the Content.

7. Security of your credit card

- 7.1. Please note that credit card payments are not processed on a page controlled by us and may be processed by way of a third party payment processor such as Stripe.
- 7.2. Processing takes place through Smarter Drafter and we are bound by their terms and conditions. While we will use our reasonable commercial endeavours to ensure the safety of any details we hold, we cannot directly control the details held by third party sites and will not be liable in this regard.

8. Privacy Act

- 8.1. We may collect Personal Information about your representatives, your clients and others when we provide services to you. If we do, you agree to work with us to ensure that we both meet the obligations that we each may have under the Privacy Act 1988 (Cth) (as amended) (Privacy Act). The obligations may include notifying the relevant person to whom the personal information relates who we are and how we propose to use their

personal information. Where you have collected personal information, you confirm that you have collected the personal information in accordance with the Privacy Act, that you are entitled to provide this personal information to us and that we may use and disclose the personal information for the purpose/s we provide our services to you. We will handle personal information in accordance with the Privacy Act.

9. Disclaimers

- 9.1. The law differs from one country to another. This paragraph applies so far as the applicable law allows.
- 9.2. All implied conditions, warranties, and terms are excluded from this agreement. If in any jurisdiction an implied condition, warranty, or term cannot be excluded, then this sub paragraph shall be deemed to be reduced in effect, only to the extent necessary to release that specific condition, warranty or term.
- 9.3. The Services and Content are provided "as is". We make no representation or warranty that the Services or Content will be:
 - 9.3.1. useful to you;
 - 9.3.2. of satisfactory quality;
 - 9.3.3. fit for a particular purpose;
 - 9.3.4. available or accessible, without interruption, or without error;
- 9.4. Your use of the Membership Services or the Site, or the exercise of any right granted under this agreement will infringe any other intellectual property or other rights of any other person.
- 9.5. The Site may contain links to other third party Internet websites (Third Party Sites). We do not have power or control over any Third Party Sites, and you acknowledge and agree that we shall not be liable in any way for the Content of any such linked website, nor for any loss or damage arising from your use of any such website.
- 9.6. We are not liable in any circumstances for special, indirect, or consequential damages or any damages whatsoever resulting from loss of use, loss of data, or loss of revenues or profits, whether in an action of contract, negligence or otherwise, arising out of or in connection with your use of the Site.
- 9.7. In downloading and customising any Content, including templates or precedents, you do not enter into a solicitor-client relationship with us, nor

have we provided you with legal advice. The Content is legal information only and should not be a substitute or constitute professional legal advice.

- 9.8. While we use reasonable commercial endeavours to ensure all Content is accurate and fit for use by you, we do not take responsibility whatsoever for the suitability of the Content for your intended purpose. Further, we do not provide a warranty as to the fitness of the Content. You agree to indemnify us against all liabilities, claims, demands, damages, actions, or loss arising out of your incorrect or inappropriate use of the Content.
- 9.9. We make no guarantees as to the suitability of the Content and you acknowledge that you understand the Content may produce different results for different people and that the Content is intended for a mass audience and not your business specifically.
- 9.10. You acknowledge that by purchasing, downloading, and using this legal precedent and/or how-to guide (Content) from The Business Minded Lawyer Pty Ltd ACN 638 149 149 trading as "The Family Law Education Network of Australia" (we, us, our), you are agreeing in full to this disclaimer.

10. Use of Content

- 10.1. The Business Minded Lawyer Pty Limited trading as The Family Law Education Network of Australia (FLENA) grants you a limited, non-exclusive, royalty free, revocable license to use this Content for your business. However, this Content may not be copied, given to a third party, reproduced, transmitted electronically, or otherwise used in any way in whole or in part for the purpose of commercial gain by you for any purpose that may amount to competition with us in any way.
- 10.2. You may use the Content for business use, including in the preparation of documents or contracts for clients. Where permitted or intended, you may modify the language contained in the Content or add your details. You acknowledge that we can't guarantee any modification will maintain the integrity or original intention of the Content or result in the outcome being the intended use of the Content.

11. Outsourced Services

- 11.1. The Business Minded Lawyer Pty Limited trading as The Family Law Education Network of Australia (FLENA) will involve third-party contractors or "contributors" to prepare materials for your use under the membership status you have selected. Your details will not be shared with the exception of any third-party technology integrations of which you are already a member, unless agreed to by you.
- 11.2. Acceptance of our services in conjunction with this engagement document indicates your acceptance of the use of outsourced services as described above.

12. Consequences of termination

- 12.1. On termination of your Membership by you, you will cease to have access to the Membership and Services (including the Content) at the end of the period for which you have paid up to.
- 12.2. We may terminate this agreement at any time if you have breached the terms of this agreement with immediate effect by sending you notice to that effect by email. There will be no reimbursement or credit if the agreement is terminated under this clause 9.2.
- 12.3. In the event that we terminate our agreement with Smarter Drafter (End Date), you will continue to have access to the Content until the end of the period for which you have paid for, however we will no longer be reviewing the currency, quality or reliability of the Content. You agree to release us from all liability in this regard relating to any use of the Content after the End Date.
- 12.4. We retain the right, at our sole discretion, to terminate any and all parts of the Services provided to you, without refunding to you any fees paid if we decide in our absolute discretion that you have failed to comply with any of the terms of this agreement.

13. Storage of data

- 13.1. We assume no responsibility for the deletion or failure to store or deliver email or other messages.

- 13.2. You accept that we cannot be liable to you for any such deletion or failure to deliver to you.

14. Interruption to Services

- 14.1. We are not responsible for any interruption to the Services as our Services and Content are accessible and hosted through Smarter Drafter. You agree that we are not liable for any loss, foreseeable or not, arising from any interruption to Services.

15. Limitation of liability

- 15.1. Our total liability to you, for any one event or series of related events, and whether in contract, tort, negligence, breach of statutory duty or otherwise, shall be limited to the amount of your monthly Membership fee.
- 15.2. Neither party shall be liable to the other in any possible way, for any loss or expense which is:
- 15.2.1. indirect or consequential loss; or
 - 15.2.2. economic loss or other loss of turnover, profits, business, or goodwill.
- 15.3. This paragraph (and any other paragraph which excludes or restricts our liability) applies to our directors, officers, employees, subcontractors, agents, and affiliated companies as well as to us.

16. Indemnity

- 16.1. You agree to indemnify us against any loss, damage, or liability, suffered by us at any time and arising out of:
- 16.1.1. any act, neglect, or default of yours in connection with this agreement or your use of the Services;
 - 16.1.2. your breach of this agreement;
 - 16.1.3. your failure to comply with any law;
 - 16.1.4. a contractual claim arising from your use of the Services.

17. Terms Of Service

- 17.1. The precedents, commentaries, information, publications, and any service provided by The Business Minded lawyer Pty Limited trading as The Family Law Education Network of Australia (hereinafter referred to as FLENA) does not constitute legal advice or any other type of professional advice.
- 17.2. FLENA services may be utilised by Family Lawyers, Mediators and other professionals and is not to be utilised by non-professional individuals.
- 17.3. The views, opinions and comments expressed by our contributors (those who provide knowledge, service, training and drafting of documents to the FLENA community) and the feedback that they provide on this website, in seminars or on online platforms are those of the contributors and not FLENA. They are intended for use as an aid to understanding legal concepts only and are no substitute for more comprehensive legal advice or training.
- 17.4. FLENA disclaims all liability for any omissions, errors or inaccuracy in any material published on this website, precedents, online in social media, on other Online platforms etc , including material published by our contributors.
- 17.5. By using this service, you accept that FLENA, its officers, employees, agents, and related bodies corporate will not be liable to you in any way for any loss, damage, cost or expenses you may suffer or incur through the use of this website or any information, opinions or comments published or made by contributors to FLENA.

18. Miscellaneous matters

- 18.1. If any term or provision of this agreement is at any time held by any jurisdiction to be void, invalid or unenforceable, then it shall be treated as changed or reduced, only to the extent minimally necessary to bring it within the laws of that jurisdiction and to prevent it from being void and it shall be binding in that changed or reduced form. Subject to that, each provision shall be interpreted as severable and shall not in any way affect any other of these terms.
- 18.2. The rights and obligations of the parties set out in this agreement shall pass to any permitted successor in title.
- 18.3. If you are in breach of any term of this agreement, we may:

- 18.3.1. publish all text and content relating to the claimed breach, including your name and email address and all correspondence between us and our respective advisers; and you now irrevocably give your consent to such publication;
- 18.3.2. terminate your Membership; and/ or
- 18.3.3. issue a claim in any court.
- 18.4. Any obligation in this agreement intended to continue to have effect after termination or completion shall so continue.
- 18.5. No failure or delay by any party to exercise any right, power or remedy will operate as a waiver of it nor indicate any intention to reduce that or any other right in the future.
- 18.6. Any communication to be served on either of the parties by the other shall be delivered by hand or sent by express post or recorded delivery or by e-mail. It shall be deemed to have been delivered:
 - 18.6.1. if delivered by hand: on the day of delivery;
 - 18.6.2. if sent by post to the correct address: within 72 hours of posting;
 - 18.6.3. if sent by e-mail to the address from which the receiving party has last sent e- mail: within 24 hours if the sender has received no notice of non-receipt.
- 18.7. In the event of a dispute between the parties to this agreement, then they undertake to attempt to settle the dispute by engaging in good faith with the other in a process of mediation before commencing arbitration or litigation.
- 18.8. So far as the law permits, and unless otherwise stated, this agreement does not give any right to any third party.
- 18.9. Neither party shall be liable for any failure or delay in performance of this agreement that is caused by circumstances beyond its reasonable control.
- 18.10. Governing Law set out in the Definitions shall govern the validity, construction and performance of this agreement and you agree that any dispute arising from it shall be litigated in accordance with the Governing Law.