

Smarter Drafter App Usage Terms: Published 23rd September 2024

Welcome to Smarter Drafter! [Tensis Limited trading as Smarter Drafter] (“Smarter Drafter”, “We”, “Us” or “Our”).

1 Agreement to these App Usage Terms

By accessing the Database and the Software, you agree to be bound by these terms of use (“App Usage Terms”). These App Usage Terms constitute a binding agreement between you and Us and govern your use of the Database and include Our Privacy Policy which is incorporated by reference into these App Usage Terms.

2 Subscription Terms

(a) You, the Customer places an order for a subscription of one or more of the following products or services (“**Products**” and/or “**Services**”):

Product / Services	Description	Notes
Smarter Drafter	The base app and platform	This does not include the upgrades or additional modules
CMS integration	Integration of case management system	
DMS integration	Integration of document management system	
Instruction taking	Instruction taking forms which expedite the filling of Smarter Drafter automations	
eSignatures	Provides the ability to send generated and custom documents to clients for digital signing	
Word plugin	The ability to open, edit and manage automatically generated documents within Microsoft Word	

Clause Bank	Ability to build and manage a bank of clauses for use in legal and professional documents	
AI Tools	AI driven document summary and cover letter writing	
Smarter Drafter Builder	The ability to create your own automations in Smarter Drafter	

- (b) You acknowledge that the Products and/or Services are subject to change by Us or Our third-party suppliers from time to time by either replacement, removal or addition of Products and/or Services.

3 Orders, Subscription and Payments

3.1 Offers to treat

- (a) Information contained on Our website constitutes an invitation to treat only. By placing an order to purchase any Products and/or Services, you make an irrevocable offer to Us to purchase such Products and/or Services.
- (b) Orders must be signed by an authorised representative of your firm. By signing your order, you accept these App Usage Terms.
- (c) No information on Our website constitutes an offer by Us to supply any Products and/or Services to you – however, We will endeavor to supply to you your selected Products and/or Services. We reserve the right in Our discretion, at any time:
- (i) Prior to your order being accepted to cancel all or part of your order; and/or
 - (ii) To refuse to provide Products and/or Services to you.

3.2 Processing of orders

- (a) We will not commence processing any order unless and until:
- (i) Payment has been received by Us in full; and
 - (ii) The order has passed Our internal validation procedures, which are undertaken in order to verify each order.
- (b) We may request further information from you, such as a copy of your credit card and/or other identification documentation, as part of Our internal validation procedures. Until your order has passed Our internal validation procedures, your order will remain on pending status. If further information is requested and you do not provide such requested information within such time as We consider appropriate in Our discretion, your order will be cancelled and, if your payment has been received, it will be refunded back to you.
- (c) We will not be responsible for any damages, including consequential losses (whether direct or indirect), that may be suffered by a customer whose credit card is used in connection with an order but in a fraudulent or unauthorised manner.

3.3 Acceptance of orders

Acceptance of each order for the purchase of any Products and/or Services will be deemed to occur when We notify you in writing (including by email) that the order has been accepted.

3.4 Free trial period

Occasionally, new customers may be provided with an initial free trial period, which, if granted, will not count toward the term of your subscription. We reserve the right to modify the duration of any trial and subscription. You may cancel your trial at any time during the trial period via the app.smarterdrafter.com.au menu. If you do not cancel prior to the end of the free trial period, you will be obliged to complete the term of your subscription and any amounts already paid will not be refunded to you. We reserve the right to terminate any unpaid trial at any time at Our absolute discretion.

3.5 Subscription

- (a) A subscription entitles you to use the Products and/or Services that you have subscribed to, for the number of users that you have subscribed for, for the subscription period and any renewal of that period.
- (b) From time to time at Our discretion, We may add new Products and/or Services. We reserve the right to charge extra for any new Products and / or Services. Where additional charges will be incurred; you will be given the option whether or not to include those new Products and/or Services in your subscription.

3.6 Authorised users

- (a) Your subscription includes access for the number of users as shown on the signed proposal which has been accepted by you, or as amended from time to time.
- (b) You acknowledge that sharing your login details is strictly prohibited. You covenant that you will not share your password, or login credentials with any other person. You acknowledge and agree that if your number of users increases or if We detect that you have shared your password, you will be charged for and will be liable to pay for those additional users.

3.7 12-month subscription periods

- (a) You acknowledge and agree that you are purchasing the Products and/or Services for either a monthly or annual subscription ("Initial Term") and cannot cancel the subscription until that Term expires.
- (b) All subscriptions will automatically renew for the same period as the expiring Term ("Renewal Term"), together the Initial term and the Renewal Term shall be known as the "Term". To turn off automatic renewal or to change the Products and/or Services you will need to provide Us with written notice at least one (1) month before the end of the term.

- (c) Unless otherwise expressly agreed, Our standard pricing at the time of renewal will apply to the Renewal Term.

3.8 Price

- (a) You agree to pay to Us the fees for the subscription as set out in the order, plus the price for any additional Users, and any Products and/or Services that you have purchased during the Term.
- (b) We may change Our fees from time to time on 30 days' prior notice or if you are on a subscription, you will be notified of the change in the fees before the renewal of the term. If you do not wish to proceed with any renewal or the subscription because of the price increase, you must provide Us with written notice at least one (1) month before the end of the Term so We can ensure that you are not charged.

3.9 Payments

We use a third-party payment processor to process orders. The processing of payments is also subject to these App Usage Terms and the policies of the third-party payment processor. As of January 2024, Our primary payment processor is Stripe. However, Our reseller partners may use other payment methods. We do not store your payment information on Our servers. Stripe collects your payment information and stores it securely on its servers. You may view Stripe's App Usage Terms and policies through the Stripe website (<https://stripe.com/au/>).

3.10 Refunds

Except as expressly provided otherwise in these App Usage Terms, all amounts paid for the Products and/or Services are non-refundable, nor are you permitted to set off any payment that is owing to Us.

4 User Data

4.1 User Data

You acknowledge and agree that We, our employees or representatives may view your User Data from time to time for the purposes of providing support to you and evaluating future enhancement and improvement of Our Products and/or Services. We will not divulge any of your User Data to any third party for any purpose except where required by law; or to assist you; or to improve Our Products and/or Services.

5 Grant of Licence

Subject to these and your compliance with these App Usage Terms, We hereby grant to you a limited, personal, non-exclusive, non-transferable and non-sublicensable license during the Term to use the Software subject to and in

accordance with these App Usage Terms.

- 5.1 You hereby grant Us a license to use your User Data that may be obtained by Us, by you using Our Products and / or Services for marketing purposes and to develop new products and services and as otherwise set out in Our Privacy Policy. You acknowledge that to use the Word plugin, We will use the User Data to develop new AI services and that you shall only be permitted to use the Word plugin, if you consent to this licence and Our use as set out in these App Usage Terms.

6 Restrictions on use

6.1 Use of Database, the Software and the Products and/or Services

- (a) By using the Database, the Software, and the Products and/or Services you acknowledge and agree that:
- (i) You are only permitted to use the Database while your subscription is active.
 - (ii) You will only use the Database and the Software in accordance with these App Usage Terms;
 - (iii) You will not assign, sub-licence or otherwise deal in any other way with your rights under these App Usage Terms without Our prior written consent;
- (b) You must not:
- (i) Use any device or software that interferes, or attempts to interfere, with the proper working of the Database or Software;
 - (ii) Use the Database or Software to decipher passwords or security encryption codes, transmit any worms, viruses or Trojan horses, transfer or store illegal, threatening or obscene material or otherwise violate the security of any computer network;
 - (iii) Use the Database or Software to violate any applicable local, state, national or international law; engage in fraud; malicious, misleading or deceptive conduct or encourage others to do so;
 - (iv) Use any spider, robot or search/retrieval application or any screen scraping, data mining or similar data gathering device, process, program or means to access, retrieve or index any portion of the Database or Software;
 - (v) Use the Database or Software to transmit junk mail, spam or chain letters or pyramid schemes or engage in other flooding techniques or mass distribution of unsolicited email;
 - (vi) Interfere with any advertisements (if any) appearing on or in connection with the Database;
 - (vii) Reverse engineer, decompile, disassemble, adapt, modify, translate, frame or reformat any of the Software contained on the Database;
 - (viii) Falsely imply that any other business or website is associated with Us or the Database or Software;
 - (ix) Do anything that leads, or may lead, to a decrease in the value of our Intellectual Property Rights in the Database or the Software;
 - (x) Use or exploit any of the material appearing on the Database for, or in connection with, any business or enterprise (whether for profit or otherwise), including any business or enterprise that is in competition with Us;

- (xi) Release to the public any news release, advertising material, promotional material or any other form of publicity or information relating to Us without Our prior written consent; or
- (xii) Use the Database or the Software to transmit any information or material that is, or may reasonably be considered to be:
 - (A) abusive, threatening, harassing, harmful, obscene, indecent, lewd, inflammatory, violent, vulgar, profane, racially, ethnically or otherwise objectionable or offensive in any way;
 - (B) libellous, defamatory, unlawful or plagiarised;
 - (C) infringe upon, modify, remove or violate any copyright, trademark, patent or other intellectual property or proprietary right;
 - (D) in breach of any duty of confidentiality by which you are bound, whether by way of a fiduciary or contractual relationship;
 - (E) in breach of any person's privacy or publicity rights;
 - (F) contain any political campaigning material, advertisements or solicitations; or
 - (G) likely to bring Us; Our associated entities or any of Our directors or employees into disrepute or would or likely to damage Our goodwill or reputation.

6.2 Violations of these App Usage Terms

- (a) You acknowledge that we can determine if you use the Software contrary to these App Usage Terms. You acknowledge that We may take action against you if we reasonably believe that you will actually or potentially or cause someone else to actually or potentially breach our App Usage Terms.
- (b) Without limitation of those rights or any other remedy available to Us at law or in equity, if We believe that your actions may cause Us actual or potential loss, damage and/or legal liability to Us, Our customers or suppliers or any other person, We reserve the right, without notice to you to take any action that We deem necessary, including but not limited to the following:
 - (i) Seek injunctive relief and the right to sue for damages;
 - (ii) Temporarily or indefinitely block, suspend, limit or terminate your access to the Database, or your subscription or refuse to provide Products and/or Services;
 - (iii) Remove or block access to any Product and/or Service (in whole or in part);
 - (iv) Limit your subscription;
 - (v) Charge you additional subscription fees if your user information is shared with another person; and/or
 - (vi) Investigate; prosecute and make a claim against you for costs; loss or expenses on account of breach of copyright, theft, unauthorised use and misleading and deceptive conduct.

7 Intellectual property

7.1 Copyright

- (a) The Database is Our property or Our licensors (as applicable) and is protected by international copyright laws.

7.2 Trademarks

The name "Smarter Drafter" "Tensis" and "Rulestar" and the associated logos are Our trademarks. The look and feel of the Database (including all button icons, scripts, custom graphics, and headers) are Our service marks, trademarks and/or branding. These trademarks, service marks and branding may not be used, copied or imitated, in whole or in part, without Our prior written consent.

7.3 Ownership of Intellectual Property Rights

- (a) You acknowledge and agree that:
 - (i) Nothing in these App Usage Terms or the use of the Database or the Software transfers or assigns any Intellectual Property Rights to you.
 - (ii) We own and retain all Intellectual Property Rights in the Software and you have no Intellectual Property Rights in any part of the Software, including any modifications or enhancements thereof, other than the right to use the Software temporarily granted to you pursuant to these App Usage Terms.

8 Disclaimers, Warranties and Liability

8.1 Disclaimers

You acknowledge:

- (a) That you use the Database, the Software and the Products and/or Services at your own risk.
- (b) We disclaim any intent or obligation to update any particular Product and / or Service whether as a result of new information or otherwise.

8.2 Limit of Liability

- (a) To the maximum extent permitted by law:
 - (i) We and Our affiliates and their directors, officers, employees, agents, consultants/contractors, licensors and partners expressly disclaim all guarantees, representations and warranties (whether express or implied, statutory or otherwise); and
 - (ii) Are not responsible or liable for any cost, loss or damage of any kind whether it be consequential (including loss of profits or goodwill), indirect, incidental,

special, punitive, exemplary or otherwise and whether arising in contract, negligence, tort, equity, statute or otherwise), arising directly or indirectly out of, or in connection with the Database, the Software or the Products and/or Services, including:

- (A) Any use, download, reliance, acting or failing to act, on the Database, Software, Products and/or Services or any other information or material contained on or referred to or generated by the Database or the Software;
- (B) Any implied warranty of merchantability, fitness for a particular purpose;
- (C) Any representation, warranty or guarantee as to the reliability, timeliness, quality, suitability, availability, accuracy or completeness of the Database, the Software and any Products and/or Services and that they will meet your requirements or expectations;
- (D) The use of the Software or the servers that make the Software available will be secure, uninterrupted, virus and error-free or operate in combination with any other hardware, software, system or data;
- (E) Any third-party website referred to in these App Usage Terms or linked to the Software, is reliable, accurate, complete or up-to-date;
- (F) That any errors or defects in the Database, the Software or the Products and/or Services will be corrected; or
- (G) Any claim from your client relating to their personal Information or a breach by you of the applicable data protection laws or Our Privacy Policy.

9 Warranties and Indemnity

9.1 Waiver, Indemnity and release

- (a) You represent and warrant that by using this Database and the Software, you are assuming the risk in using the Database and the Software and acknowledge and agree that you waive the right, and covenant not to bring, any claim, complaint, demand, proceeding, suit, litigation, action, cause of action or other legal recourse (whether in contract, tort, under statute or otherwise) that you have, or would otherwise have had, against Us and our affiliates and/or any of Our directors, officers, employees, agents, consultants, licensors and partners and you acknowledge and agree that this waiver and release may be pleaded as a complete defence to any such claims.
- (b) You indemnify and hold harmless Us and Our directors, officers, employees, agents, consultants, licensors, partners and affiliates from and against any losses, liabilities, costs, expenses or damages (including actual, special, indirect and consequential losses or damages of every kind and nature, including all legal fees on a solicitor-client basis) suffered or incurred by any of them due to, arising out of, or in any way related to, whether directly or indirectly:
 - (i) any material or information that you submit, post, transmit or otherwise make available through the Database and the Software;
 - (ii) your use of or reliance upon any Products and/or Services; the Database and the Software; or

- (iii) your negligence or misconduct, breach of these App Usage Terms or violation of any law or the rights of any person.
- (c) You agree that the waiver and each indemnity provided above, continues to endure notwithstanding the termination or expiration of your subscription.

10 Force majeure

To the maximum extent permitted by law, and without limiting any other provision of these App Usage Terms, We exclude liability for any delay in performing any of our obligations under these App Usage Terms where such delay is caused by circumstances beyond Our control, and We shall be entitled to a reasonable extension of time for the performance of such obligations.

11 Taxes

Unless otherwise expressly stated, all amounts payable in conjunction with these App Usage Terms and the Products and/or Services do not include any taxes. You will pay any sales, use, or value-added taxes that you owe under these App Usage Terms and that the law requires Us to collect from you.

12 General

12.1 Costs

Except as specifically provided in these App Usage Terms, each party must bear its own legal, accounting and other costs associated with these App Usage Terms.

12.2 Assignment

- (a) You may not assign, transfer or subcontract any of your rights or obligations under these App Usage Terms without Our prior written consent. Where you request to assign or novate your rights and obligations We reserve the right to charge an administration charge for handling and preparing the paperwork associated with that assignment.
- (b) We may assign, transfer or subcontract any of Our rights or obligations under these App Usage Terms at any time without notice to you.

12.3 No waiver

Waiver of any power or right under these App Usage Terms must be in writing signed by the party entitled to the benefit of that power or right and is effective only to the extent set out in that written waiver. Any failure by Us to act with respect to a breach by you or others does not waive Our right to act with respect to that breach or any subsequent or similar breaches.

12.4 Severability

The provisions of these App Usage Terms are severable and, if any provision of these App Usage Terms is held to be illegal, invalid or unenforceable under present or future law, such provision may be removed and the remaining provisions shall be enforced.

12.5 Variation

We reserve the right to amend these App Usage Terms and any other policy on the Database at any time in Our sole discretion and any such changes will, unless otherwise noted, be effective immediately. Your continued usage of this site will mean you accept those amendments. We reserve the right, without notice and in Our sole discretion, to change, suspend, discontinue, or impose limits on any aspect of this site, the content on this site or the Products and/or Services offered through this site. You may only vary or amend these App Usage Terms by written agreement with Us.

12.6 Governing law and jurisdiction

These App Usage Terms will be governed by the laws of England and Wales. The parties irrevocably submit to the non-exclusive jurisdiction of the courts of England.

13 Interpretation and Definitions

13.1 Interpretation

In these App Usage Terms, the following rules of interpretation apply:

- (a) headings are for reference purposes only and in no way define, limit or describe the scope or extent of any provision in these App Usage Terms;
- (b) these App Usage Terms may not be construed adversely against Us solely because We prepared them;
- (c) a reference to Our App Usage Terms includes a reference to Our Privacy Policy;
- (d) the singular includes the plural and vice-versa;
- (e) a reference to a "person" includes an individual, a firm, a corporation, a body corporate, a partnership, an unincorporated body, an association, a government body or any other entity; and
- (f) the meaning of general words is not limited by specific examples introduced by "including", "for example", "in particular" or similar expressions.

13.2 Definitions

"Database" means the database that contains the Software; all of its content

(including all of the text, graphics, designs, software, data, sound and video files and other information contained in this site, and the selection and arrangement thereof); and all software, systems and other information owned or used by Us in connection with the Products and/or Services offered through this site (whether hosted on the same server as this site or otherwise).

“Intellectual Property Rights” means all intellectual property rights, including all copyright, patents, trade marks, design rights, trade secrets, domain names, know-how and other rights of a similar nature, whether registrable or not and whether registered or not, and any applications for registration or rights to make such an application, in all parts of the world.

“Software” means the Smarter Drafter software delivered to you by Us or used or accessed by you pursuant to these App Usage Terms, including, if any, all online questionnaires, instructions, manuals, guidance and documents and all drafting and content comprised therein.

“User Data” means all of the data that you upload into the Software that has been created by you or your representative, including all text and other data that you or your representative enters into the Software.