



End User License Agreement

You (“User”) and **Forwood Enterprises Pty Ltd** (“Forwood”) agree to contract electronically. This means that when you choose the “I Accept” option (at the base of this page), you acknowledge your agreement to the terms and conditions contained in this End User License Agreement (“EULA”) and that you are doing so with the intent to sign a contract with Forwood electronically. Alternatively, when you are granted online access to the Platform (including via an App), you accept and agree to be bound by this EULA without alteration.

IMPORTANT: This EULA is a legal agreement between you (as the User) and Forwood (as the licensor) in respect of your access to and use of the Platform. By accessing, downloading, or otherwise using the Platform or any associated media, printed materials, electronic documentation, underlying code, or content (“Materials”), you agree to be bound by the EULA. If you do not agree to the terms of the EULA, you must not access, download, or use the Platform and the Materials.

LICENCE AGREEMENT

1. Grant of License

- 1.1 Forwood grants to the User a non-exclusive, revocable, and non-transferable right to access and use the Platform and the Materials for the Purpose on the terms of the EULA and for as long as the User is a Registered User.
- 1.2 The User is a “Registered User” if:
 - (a) the User has agreed to the terms of the EULA;
 - (b) the User has been registered on the relevant Platform as a registered user;
 - (c) any relevant license fee has been paid by the User or the User’s employer or principal (as applicable); and
 - (d) the User has not been blocked from using the Platform due to a breach by the User of the EULA.
- 1.3 If a service and license agreement (or a similar agreement) between Forwood and the User’s employer or principal is entered into (whether before or after the acceptance by the User of the terms of the EULA), then the permitted access of the User will be determined in accordance with that agreement. In all other circumstances, the permitted access of the User will be at the sole discretion of Forwood.
- 1.4 The rights granted to the User under the EULA are personal to the User and may not be transferred or assigned to any other person or entity.

2. Description of other Rights and Limitations

- 2.1 The User will:
 - (a) only use the Platform for the Purpose and in accordance with the EULA;

- (b) not use the Platform if the User is under 18 years of age;
- (c) not copy, capture, or download any code, scripts, taxonomies, tools, features, or functions from the Platform including the Materials, 'screen shots' of pages, graphics, presentations, Content, training materials or user manuals and help guides contained on the Platform;
- (d) not disassemble, create derivative works, modify, reverse engineer, adapt, or decompile the Platform (or any part of it) or the features and functions on the Platform;
- (e) not use the Platform for any activity which is obscene, indecent, offensive, or defamatory;
- (f) refrain from tampering with, hindering the operation of or making unauthorized modifications to the Platform (or any part of it);
- (g) refrain from introducing any virus to or from the Platform;
- (h) refrain from changing any administration settings on any part of the Platform;
- (i) refrain from connecting the Platform to any unauthorized network;
- (j) refrain from collecting information about others, including Personal Information;
- (k) refrain from using any part of the Platform to send commercial electronic messages which amount to spam;
- (l) keep all passwords, account names, tokens or log in identifications required to access the Platform secure and confidential;
- (m) refrain from uploading onto the Platform any material, or use the Platform in any way:
 - (1) which infringes the Intellectual Property Rights of any person; or
 - (2) which is unlawful or violates any law; and
- (n) upon the termination of the EULA, delete or destroy any electronic or hard copies of any 'screen shots', code, scripts, source data, reports, graphics or images in the User's possession or control.

2.2 All uses of the Platform by the User other than the Purpose must receive prior written permission from Forwood.

2.3 The User agrees to comply with all policies and instructions notified by Forwood in writing to the User from time to time.

3. Member Account, Password and Security

3.1 The Platform requires the User to choose a username and password (initially provided by Forwood). The User:

- (a) must maintain the confidentiality of their password and account information;
- (b) is responsible for any and all activities that occur under their account;

- (c) must notify Forwood immediately of any unauthorized use of their account or any other breach of security;
- (d) is liable for losses incurred by Forwood or another party due to someone else using their account or password; and
- (e) may not use anyone else's account at any time, even if the account holder has provided permission.

3.2 Forwood is not liable for any loss that the User may incur as a result of someone else using their password or account, either with or without the User's knowledge.

4. Capacity and Authority to Sign

The User warrants that the User is duly authorized by their employer or principal to enter into this EULA.

5. Intellectual Property

5.1 Forwood retains ownership of the Platform, Content, and the Materials whether in their original form or as modified by the User during the term of this EULA.

5.2 All Intellectual Property Rights in the Platform, Content, the Materials and the code, scripts, features, and functions related to the Platform are retained by Forwood.

5.3 Nothing in this EULA affects the ownership of Moral Rights in the Platform or the Materials.

6. Commercial Use

Under no circumstances may the User copy, distribute, display, modify, transmit, perform, reproduce, publish, license, create derivative works from, transfer, or sell any information, software, products, or services obtained from (or used in) the Platform, Content, the Materials, and associated services.

7. Term and Termination

7.1 This EULA becomes effective upon the User's acceptance of the terms of this EULA as evidenced by:

- (a) the User selecting the "I Accept" option at the end of this EULA; and/or
- (b) the User's use and access to the Platform (including via an App),

and remains in effect until this EULA is terminated in accordance with clause 7.2.

7.2 The EULA is terminated:

- (c) automatically if the User ceases to be a Registered User in accordance with clause 1.2;
- (d) immediately by Forwood giving written notice to the User if the User commits a material breach of this EULA. The Parties agree that a breach of clause 2.1 is a material breach;
- (e) at any time by the mutual agreement of the Parties; and
- (f) by either Party by giving 30 days' notice.

- 7.3 The obligations in clauses 2.1(n), 3.1(d), 3.2, 5, 6 and 8 are continuing and will survive the termination of this EULA.

8. Limitation of Liability, Remedies, and Indemnities

- 8.1 In no event will Forwood be liable for any special, incidental, indirect, punitive or consequential damages whatsoever (including, but not limited to, damages for loss of profits, loss of revenue, business interruption, personal injury, loss of privacy, failure to meet any duty (including of good faith or of reasonable care), negligence, and any other pecuniary or other loss whatsoever) arising out of or in any way related to the use of or inability to use the Platform or its supporting documentation, or services, or the provision of or failure to provide support services, or otherwise under or in connection with any provision of this EULA, even if Forwood has been advised of the possibility of such damages.
- 8.2 Notwithstanding any damages that the User might incur for any reason whatsoever (including, without limitation, all damages referred to in clause 8.1 and all direct or general damages), the entire liability of Forwood under any provision of this EULA and the remedy available to the User for all of the foregoing will be limited to the actual amount paid by the User for this license or \$100 Australian dollars whichever is the greater amount. The foregoing limitations, exclusions and disclaimers will apply to the maximum extent permitted by any applicable law, even if any remedy fails its essential purpose.
- 8.3 The User must indemnify and hold Forwood harmless for any loss, cost, expense (including legal costs on a full indemnity basis) or damage that Forwood suffers or incurs as a result of:
- (a) a breach of the terms of this EULA;
 - (b) any fraud;
 - (c) a failure to obtain, maintain, and comply with any consents required in relation to this agreement, or to comply with any applicable laws;
 - (d) personal injury, death, or loss of or damage to real or tangible personal property; or
 - (e) any claims, actions, or proceedings by a third party and any investigations by a government body,
- arising out of any act or omission of the User whether accidental or not.

9. Privacy

- 9.1 Forwood will handle Personal Information in accordance with its Privacy Policy and any applicable privacy laws.
- 9.2 The User acknowledges and agrees that its Personal Information will be handled by Forwood in accordance with its Privacy Policy.
- 9.3 This clause will survive the termination or expiry of the EULA.

10. Confidentiality

- 10.1 A party will not, without the prior written approval of the other party, disclose the other party's Confidential Information.

- 10.2 A party will not be in breach of clause 10.1 in circumstances where it is legally compelled to disclose the other party's Confidential Information or where it discloses Confidential Information on a need-to-know basis to its employees or agents, or sub-contractors engaged for the purposes of this EULA.
- 10.3 Each party will take all reasonable steps to ensure that its employees and agents, and any sub-contractors engaged for the purposes of this EULA, do not make public or disclose the other party's Confidential Information.
- 10.4 Notwithstanding any other provision of this clause, a party may disclose the terms of this EULA (other than Confidential Information of a technical nature) to its related companies, solicitors, auditors, insurers, and accountants.
- 10.5 This clause will survive the termination of this agreement.

11. Entire Agreement

This EULA constitutes the entire understanding and agreement of the parties with respect to the subject matter of this EULA. No amendment, modification, or release from any provision of this EULA will be valid unless effected by mutual written agreement by the parties.

12. Notices

All enquiries regarding this EULA or any copying, use or other matters relating to the Platform and their associated software should be directed to:

Forwood Enterprises Pty Ltd
P.O. Box 1250
Earlville, QLD 4870
Phone: +61 7 4253 5486
E-mail: HR@forwoodsafety.com

13. Severability

Any part or all of any clause of this EULA that is illegal or unenforceable will be severed from this EULA and will not affect the continued operation of the remaining provisions of this EULA.

14. No merger

The rights and obligations of the parties will not merge on completion of any transaction under this EULA. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing any transaction.

15. Law

This EULA will be governed by and construed in accordance with the laws for the time being in force in the State of Victoria Australia and the parties agree to submit to the non-exclusive jurisdiction of the courts and tribunals of that State.

16. Waiver

No forbearance, delay, or indulgence by a party in enforcing the provisions of this EULA will prejudice or restrict the rights of that party, nor will any waiver of those rights operate as a waiver of any subsequent breach.

17. Relationship

It is acknowledged and agreed by the parties that nothing in this EULA constitutes the parties as partners, agents, or employees of the other and no party has any authority to bind the other legally or equitably except as expressly stated in this agreement.

18. Definitions

“App” means the computer program or software application owned and operated by Forwood running on a mobile device downloaded through a participating App store;

“Confidential information” of a discloser means all information, data, and know-how, regardless of material form which is confidential or proprietary in nature, or is designated as such by the discloser (including any intellectual property, Personal Information, and this EULA) but excludes information that:

- (a) is or becomes available in the public domain through no breach of confidence;
- (b) is known to the recipient from a source other than the discloser provided that the person who provided the information was not also under a confidentiality obligation in relation to that information; or
- (c) was independently created by the recipient.

“Content” means all Critical Control Checklists and other content used both online and offline in the Platform, including but not limited to: Manager Critical Control Checklists, Supervisor Critical Control Checklists, Operator Critical Control Checklists and Task Based Critical Control Checklists.

“Intellectual Property Rights” includes, but is not limited to:

- (a) trademarks, patents, copyrights, processes know-how, trade secrets, registered designs, business and domain names, technology, data, advertising and promotional materials and other results of intellectual activity in the industrial, commercial, scientific, literary, or artistic fields;
- (b) all updates, enhancements, improvements, developments, fixes, replacements, and modifications to or of the intellectual property listed in (a) above; and
- (c) all present and future rights conferred by statute, common law, or equity in or in relation to the intellectual property listed in (a) or (b) above.

“Moral Rights” means:

- (a) a right of attribution of authorship;
- (b) a right not to have authorship falsely attributed;
- (c) a right of integrity of authorship; or
- (d) a right of a similar nature,

which is conferred by statute, and which exists or comes to exist anywhere in the world in a deliverable form comprised within this EULA.

“Personal information” means information or an opinion (whether true or not) about an identified individual (or an individual who is reasonably identifiable) whether the information or opinion is recorded in a material form or not, which is collected, used, disclosed, stored, or handled by Forwood for the purposes of this EULA.

“Platform” means the relevant Forwood solution and supporting services made available to the User, inclusive of the Content.

“Purpose” means accessing, utilizing, reviewing, approving, completing, or submitting any Content which the User is permitted to access under the EULA.