



# OnGuard Safety Training

MAKING SENSE OF WORKPLACE SAFETY TRAINING

[www.OnGuardSafetyTraining.com](http://www.OnGuardSafetyTraining.com)

I Accept

[I have read and agree to the terms of the End User Licence Agreement](#)

I do not Accept

[I have read and DO NOT agree to the terms of the End User Licence Agreement](#)

## END USER LICENCE AGREEMENT

### OnGuard ACEProIndTech, OnGuard ACEProLiTE and OnGuard ACEProPLUS

You have been directed to this EULA page because You are the ACEProPLUS Administrator, an ACEProPLUS Supervisor or an ACEProLiTE Supervisor. These User Types have access to the Resource components and the Management components of the **OnGuard ACEPro product**.

BY ACCESSING, USING OR DOWNLOADING THE SOFTWARE AND DOCUMENTATION ("OnGuard ACEPro product"), YOU AGREE TO THE TERMS OF THIS EULA. IF YOU DO NOT AGREE TO THE TERMS OF THIS EULA, DO NOT ACCESS, USE OR DOWNLOAD THE **OnGuard ACEPro product**. THIS EULA CONTAINS DISCLAIMERS OF WARRANTIES AND LIMITATIONS OF LIABILITY AND EXCLUSIVE REMEDIES. THE PROVISIONS BELOW FORM THE ESSENTIAL BASIS OF OUR AGREEMENT.

This EULA is a legal agreement between YOU ("organisation, company, PCBU, officer, employee, worker, volunteer, others) and OnGuard Safety Training P/L in, including its subsidiaries, affiliates and contractors acting on Our behalf (collectively "OnGuard", "Us", "We", or "Our") regarding Your use of the **OnGuard ACEPro product**. From time to time, We may in Our sole discretion update or modify the EULA. This is the most recent version. A print copy is available and located at:

[http://www.1300beonguard.com/forms/OnGuard\\_Terms\\_of\\_Use\\_Licence\\_Agreement.pdf#view=fit](http://www.1300beonguard.com/forms/OnGuard_Terms_of_Use_Licence_Agreement.pdf#view=fit)

IF YOU AGREE TO THIS EULA (ACCEPT), YOU ARE GRANTED A LIMITED-TIME, WORLDWIDE, ROYALTY-FREE, NON-ASSIGNABLE, NON-SUBLICENSEABLE, NON-TRANSFERABLE AND NON-EXCLUSIVE SUBSCRIPTION-BASED LICENSE TO USE THE **OnGuard ACEPro product**. THE **OnGuard ACEPro product** IS LICENSED TO YOU ON A SUBSCRIPTION BASIS FOR AN INITIAL TWELVE MONTH PERIOD ("INITIAL TERM") AND WILL AUTOMATICALLY RENEW FOR AN ADDITIONAL TWELVE MONTH PERIOD ("RENEWAL TERM") UNTIL YOU TERMINATE YOUR SUBSCRIPTION BY NOTIFYING OnGuard Safety Training P/L, VIA EMAIL OR TELEPHONE, OF YOUR INTENT TO DISCONTINUE YOUR USE OF THE **OnGuard ACEPro product**.

YOUR CONTINUED USE OF THE **OnGuard ACEPro product** IS SUBJECT TO AND CONDITIONED UPON YOUR PAYMENT OF THE SUBSCRIPTION FEE.

YOU MUST PROVIDE NOTICE OF INTENT TO TERMINATE YOUR SUBSCRIPTION PRIOR TO THE END OF EACH INITIAL OR RENEWAL TERM.

DURING EACH RENEWAL TERM, ONCE A PAYMENT IS RECEIVED, SUCH 'SaaS' SUBSCRIPTION FEE IS REFUNDABLE. YOU ARE ENTITLED TO TERMINATE YOUR 'Software as a Service' SUBSCRIPTION WITH ONE MONTH'S NOTICE IN WRITING AT ANY TIME DURING THE 'SaaS' SUBSCRIPTION PERIOD. UPON TERMINATION YOU ARE ENTITLED TO A REFUND OF SO MUCH OF THE 'SaaS' SUBSCRIPTION FEE AS RELATES TO THE AMOUNT OF THE 'SaaS' SUBSCRIPTION PERIOD YET TO LAPSE.

IF YOU DECIDE TO TERMINATE YOUR SUBSCRIPTION OR FAIL TO PROVIDE PAYMENT, THE **OnGuard ACEPro product** WILL AUTOMATICALLY LOCKOUT AT THE END OF THE AGREED TERM AND WILL PROHIBIT YOU FROM USING THE **OnGuard ACEPro product**

UNTIL A RENEWAL SUBSCRIPTION FEE IS RECEIVED BY YOU.

### **Grant of licence**

The **OnGuard ACEPro product** is licensed to You, not sold to You. You must lawfully acquire the **OnGuard ACEPro product** from Us, or Our authorised resellers otherwise You don't have a right to use the **OnGuard ACEPro product**. You may only purchase a licence for the **OnGuard ACEPro product** from OnGuard Safety Training P/L or its authorised sales representatives. The **OnGuard ACEPro product** may include digital images, pictures, clip art, fonts, sounds, documents or other works ("Copyrighted Files"). The responsibilities and restrictions relating to the **OnGuard ACEPro product** apply to the Copyrighted Files. OnGuard Safety Training P/L reserves all rights not expressly granted to You in this EULA.

The initial subscription fee ('Software as a Service') is paid in advance is valid for a period of 12 calendar months. Upon expiration of the 'Software as a Service' subscription fee, You can "opt out" or exterminate the licence and You must discontinue using the **OnGuard ACEPro product**,

**This is an unlimited – single site - licence and shall NOT be considered a "sale" of the OnGuard ACEPro product.**

This non-exclusive unlimited site licence gives You the right to use and display the **OnGuard ACEPro product** within your workplace only. OnGuard Safety Training P/L retains full and complete title of the **OnGuard ACEPro product** and the accompanying documentation, and all intellectual property rights therein. You acknowledge that any additions or improvements suggested to OnGuard Safety Training P/L remain the property of OnGuard Safety Training P/L.

### **Rights of Use - Your Responsibilities**

You may not reproduce, resell, modify, reverse compile, adapt, decompile, reverse engineer, disassemble, assign, distribute, publish in any form or permit any other person to use or deal with the whole or part of any contents and/or data of the **OnGuard ACEPro product**. You may not modify or create derivative works based upon the **OnGuard ACEPro product**. You represent and warrant to Us that You will comply with all applicable laws and regulations impacting Your use of the **OnGuard ACEPro product** including data protection and privacy laws. You agree that You will not use the **OnGuard ACEPro product** in a way that is unlawful or that violates the rights of a third party. If We get sued or a claim is brought against Us by a third party due to (a) Your actions, (b) Your failure to act when required, or (c) Your content, then You agree to defend, indemnify and hold OnGuard Safety Training P/L harmless. Your subscription entitles You to receive updates, bug fixes, feature enhancements or improvements, or other data relating to the **OnGuard ACEPro product** (collectively "Updates") uploaded to Our server with a notice describing what is included in the Update and the purpose of the Update.

### **Intellectual Property and Ownership**

The **OnGuard ACEPro product** is protected by Australian Intellectual Property laws and international treaty provisions. Therefore, You may not distribute the **OnGuard ACEPro product** without Our permission. For backup or archival purposes only, You may make copies of the **OnGuard ACEPro product** database. If printed materials, digital or print copy of any user documentation, is downloaded from the **OnGuard ACEPro product**, then You may keep one (1) copy the **OnGuard ACEPro product** printed materials (or User Documentation) on a single hard drive. You agree that OnGuard Safety Training P/L, the OnGuard logos, and other OnGuard trademarks, service marks, graphics are trademarks of OnGuard Safety Training P/L. You are not granted a right to use Marks without Our permission. You will not remove, obscure or alter any proprietary or copyright notices affixed to or contained within the **OnGuard ACEPro product**. You understand and agree that We have the right to stop selling, distributing, servicing or updating the **OnGuard ACEPro product** (any part of it), and services or offerings at any time.

### **Support**

OnGuard Safety Training P/L will provide technical support (telephone only) related to the **OnGuard ACEPro product**.

### **Usage Auditing and Privacy**

Our audit and collection of any of Your data and Your use of the **OnGuard ACEPro product** is subject to Our Privacy Policy. We may audit Your **OnGuard ACEPro product** usage for anti-piracy purposes, to verify a valid registration and to assess Your use of the **OnGuard ACEPro product**. You consent to Us accessing usage data (e.g., the number of instances the **OnGuard ACEPro product** is used), for registration authentication, and use and anti-piracy auditing purposes.

## Student and Teacher, Home and Student Addendum

If this **OnGuard ACEPro product** is clearly used by a Student and Teacher, or Home and Student, Your use of this **OnGuard ACEPro product** is governed by the terms of this EULA as modified by the paragraph below. In the event of any conflict between the terms of this EULA and the paragraph below, the paragraph below shall govern. You may permit USE, at the same time, the **OnGuard ACEPro product** in the Household of a Student and Teacher, or Home and Student. Notwithstanding anything to the contrary in the EULA, You may not (a) transfer or assign this **OnGuard ACEPro product** to a third party; or (b) use this **OnGuard ACEPro product** for any commercial purpose or in any commercial enterprise or business. This **OnGuard ACEPro product** may only be used for personal purposes in a non-commercial environment.

## Restrictions

The **OnGuard ACEPro product** and its entire contents is covered by Australian Copyright law. Title to the **OnGuard ACEPro product** and all associated intellectual property rights is retained by OnGuard Safety Training P/L. Except as specifically authorised in the Supplemental Licence terms, You may not make copies of the **OnGuard ACEPro product**. You agree to advise OnGuard Safety Training P/L. in writing of any changes You make to any document. You further acknowledge that any such changes remain the property of OnGuard Safety Training P/L.

## Supplemental Licence

This **OnGuard ACEPro product** must be treated like any other copyrighted material except that You may:

- (a) use the **OnGuard ACEPro product** on a multiple number of computers within Your site, including staff and student laptops
- (b) edit text within MSWord documents throughout the **OnGuard ACEPro product**, to meet the needs at Your worksite. You further acknowledge that any such changes made remain the property of OnGuard Safety Training P/L.
- (c) make print copies of MSWord and PDF documents from the **OnGuard ACEPro product**, for the educational purposes at Your worksite only, and within the strict guidelines set by Australian Copyright law.

## Termination

This EULA is effective until terminated. You may terminate the licence agreement at the end of the 'Software as a Service' 12 month subscription by notifying OnGuard Safety Training P/L. in writing. You are under no obligation to renew the licence. **Upon terminating the licence agreement, You can NOT use or display resources copied from the OnGuard ACEPro product. You will undertake to ensure that all print copies and electronic copies of any MSWord, PDF and HTML documents copied from the OnGuard ACEPro product are destroyed. (including all edited documents)**

The End User Licence Agreement will terminate immediately without notice from OnGuard Safety Training P/L. if:

- \* You fail to comply with any provision of the End User Licence Agreement, or
- \* OnGuard Safety Training P/L makes this decision for any reason.

## Limited and Restricted Warranty - Liability Disclaimer

The **OnGuard ACEPro product** under normal use will substantially conform to the features and functionality as set forth in the documentation accompanying the **OnGuard ACEPro product**, however, the **OnGuard ACEPro product** may contain normal bugs and errors. Therefore, the OnGuard ACEPro product is provided on an "AS IS" basis with the understanding that bug fixes and Updates will be provided from time to time. This warranty is valid only for the original licence holder of the **OnGuard ACEPro product**. YOU ASSUME ALL RESPONSIBILITIES FOR CHOOSING AND USING THE **OnGuard ACEPro product**. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, OnGuard Safety Training P/L, DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT WITH RESPECT TO THE **OnGuard ACEPro product** AND THE ACCOMPANYING WRITTEN MATERIALS.

Under no circumstance, including negligence, shall OnGuard Safety Training P/L. be liable for any indirect, special incidental or consequential damages arising out of the use of or inability to use the **OnGuard ACEPro product**, including without limitation, loss of data, computer failure or malfunction or any and all other commercial damages or losses, that result from the use of, or the inability to use, the **OnGuard ACEPro product**. OnGuard Safety Training P/L., the authors, consultants, publishers and distributors are not responsible for the results of any action taken on

the basis of information in the **OnGuard ACEPro product**, nor for any error in or omission from the information in the **OnGuard ACEPro product**. OnGuard Safety Training P/L, the authors, consultants, publishers and distributors expressly disclaim all and any liability and responsibility to any person, whether a licensed user or reader of the **OnGuard ACEPro product** or not. This is in respect of the consequences of anything, done or omitted to be done by any such person in reliance upon the whole or part of the contents of this software package.

### General

If and to the extent any provision of this EULA is held illegal, invalid, or unenforceable in whole or in part under applicable law, such provision or such portion thereof shall be ineffective as to the jurisdiction in which it is illegal, invalid, or unenforceable but only to the extent of its illegality, invalidity, or unenforceability and shall be deemed modified to the extent necessary to conform to applicable law so as to give the maximum effect to the intent of the parties. No term or provision in the EULA will be considered waived, and no breach excused, unless such waiver is in writing signed on behalf of the party against whom the waiver is asserted. No waiver (whether express or implied) will constitute consent to, waiver of, or excuse of any other, different, or subsequent breach. No modifications or amendments to this EULA will be binding upon OnGuard Safety Training P/L unless made in writing and duly executed by You and an authorized representative of OnGuard Safety Training P/L.

### Limitation of Liability – Indemnity

It is understood that You will take determined steps to investigate the Work Health and Safety needs specific to Your worksite, and implement workplace 'systems of work', in addition to utilising the resource material provided in the **OnGuard ACEPro product**. It is understood that You will also take steps to investigate and obtain the following information from the manufacturers of plant, machinery and/or equipment: recommended safe operating instructions, safety precautions, guarding requirements, maintenance and storage instructions. You also understand that the **OnGuard ACEPro product** is general in nature and You will need to include practical instruction, supervisor demonstration and specific training relevant to the brand and type of plant / machinery / equipment presented at Your worksite.

### Copyright Agency Limited

#### **OnGuard Safety Training P/L. is a member of CAL**

CAL conducts random audits in schools to monitor licence provisions on behalf of its members.

February 2012 (v 1.2)

I Accept [I have read and agree to the terms of the End User Licence Agreement](#)

I do not Accept [I have read and DO NOT agree to the terms of the End User Licence Agreement](#)