

# TERMS OF USE AGREEMENT

I, \_\_\_\_\_ the undersigned, who warrants that I am duly authorised thereto, do hereby agree to the Terms of Use of the Eazy Contracting Application;

## Subscriber Details:

Company Name: \_\_\_\_\_

Registration No. \_\_\_\_\_

VAT No. \_\_\_\_\_

Registered address: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Place: \_\_\_\_\_

Email address (for Invoices): \_\_\_\_\_

## Initial Services and Modules required. (These can be amended at any time in the future.)

Core Service (Incl Primary Store, 1st 5 Users + 5Gb Files)	-	<b>X</b>	-	R 950	/ month
Users (per additional 5)	-		-	R 50	/ month
Vehicles / Sub-Stores (ea)	-		-	R 250	/ month
Files (per additional 50Gb)	-		-	R 25	/ month
Check Lists	-		-	R 500	/ month
Manufacturing Module	-		-	R 500	/ month
Contracting Module	-		-	R 500	/ month
Accounting Package Integration*	-		-	R 250	/ month
<b>Training &amp; Support</b>					
Training (Up to*): 8 hrs per Core Service + 2 hrs per 5 additional users + 1 hr per Sub-Store / Vehicle	-	<b>X</b>	-	FREE	
Email + Ticket-Based Support	-	<b>X</b>	-	FREE	
Importing + Capturing of data	-		-	R 500	/ hour
Telephone Support (Additional)	-		-	R 50	/ ¼ hour
On-Site Training (Additional)	-		-	R 500	/ hour
Outside of Cape Town*: Travel & Accommodation	-		-	POR	

<b>Monthly Total</b> (at time of signature)	
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\* All Prices are Ex VAT

## TERMS OF USE

### BY SUBSCRIBING FOR THE SERVICES, THE SUBSCRIBER AGREES TO BE BOUND BY THE FOLLOWING TERMS OF USE

#### 1 DEFINITIONS

The following terms shall have the meanings assigned to them below–

- 1.1 **"Additional Services"** means any services in addition to the Core Services subscribed for by the Subscriber, from time to time, as further contemplated in clause 3 and as more fully described in **Annexure A**;
- 1.2 **"Content"** means any and all information uploaded or posted to the Subscriber Account, the Site or the Eazy Contracting Application, in respect of the Subscriber or the Users, in the course of using the Services, including, but not limited to, any personal information in respect of the Subscriber or the Users;
- 1.3 **"Confidential Information"** means any and all information provided by the Subscriber or the Users in the course of using the Services, including –
- 1.3.1 the Content; and
- 1.3.2 any other information including, but not limited to, information regarding any Party's products, services, product designs, prices and costs, trade secrets, know-how, inventions, development plans, techniques, processes, programs, schematics, software (in any format), data, customer lists, financial information, sales and marketing plans, business opportunities, personnel data, research and development activities, pre-release products and any other information which either Party knows, or reasonably ought to know, is confidential, proprietary or trade secret information of the other Party;
- 1.4 **"Core Services"** means the basic services subscribed for by the Subscriber, as further contemplated in clause 3 and as more fully described in **Annexure A**;
- 1.5 **"Eazy Contracting"** means Eazy Costing Proprietary Limited (Registration No. 2014/073575/07), trading as *"Eazy Contracting"*, a private company incorporated under the company laws of the Republic of South Africa, with its registered address at 10 Sibyl Road, Wetton, Western Cape, 7780;
- 1.6 **"Eazy Contracting Application"** means the cloud-based contracting management software that is hosted on remote servers on the internet by Eazy Contracting, that is used for the management of Subscribers' businesses and can be accessed at <http://go.eazycontracting.com/>;
- 1.7 **"ECTA"** means the Electronic Communication and Transactions Act, 25 of 2002 (as amended);
- 1.8 **"Parties"** means the Subscriber and Eazy Contracting;
- 1.9 **"Payment Gateway"** means the authorised payment processors for Eazy Contracting;
- 1.10 **"POPI"** means the Protection of Personal Information Act, 4 of 2013;
- 1.11 **"Services"** means the use of and granting of access to the Eazy Contracting Application by Eazy Contracting, consisting of –
- 1.11.1 the Core Services;
- 1.11.2 the Additional Services; and
- 1.11.3 the Support Services;
- 1.12 **"Site"** means <http://www.eazycontracting.com/>;
- 1.13 **"Subscriber"** means the subscriber of the Subscription;
- 1.14 **"Subscriber Account"** means the account created by Eazy Contracting on behalf of the Subscriber, upon the Subscriber's

registration with Eazy Contracting, to which Users are added for the purposes of using the Services;

- 1.15 **"Subscription"** means the subscription by the Subscriber for the Services;
- 1.16 **"Subscription Fee"** means the fees charged in respect of the Services as more fully described in **Annexure B**;
- 1.17 **"Support Services"** means the support provided by Eazy Contracting as further contemplated in clause 3 and as more fully described in **Annexure A**;
- 1.18 **"Terms of Use Agreement"** means this agreement and other terms published on the Site, from time to time; and
- 1.19 **"User"** means a user that has been authorised and designated by the Subscriber to use the Services and has been added to the Subscriber Account, as further contemplated in clause 2.

#### 2 REGISTRATION

- 2.1 In order to subscribe for the Services, the Subscriber must apply through the Site for a Subscriber Account.
- 2.2 The Subscriber will be required to provide all of the information and/or consents requested during the application and registration process.
- 2.3 Eazy Contracting reserves the right to refuse the registration of a Subscriber Account on any grounds.
- 2.4 The Users will be registered for and have access to the Services as soon as the Subscriber Account is created and the Subscription will continue on a month to month basis, subject to this Terms of Use Agreement.
- 2.5 The Subscriber may add Users to the Subscriber Account, up to a maximum number of Users to be determined by Eazy Contracting from time to time.

#### 3 SERVICES

- 3.1 From the date on which the Subscriber Account is created referred to in clause 2.4, the Subscriber subscribes for and Eazy Contracting shall render the Core Services.
- 3.2 In addition to the Core Services, the Subscriber may request Additional Services and Support Services on a monthly basis, from time to time.
- 3.3 Such a request referred to in clause 3.2 must be confirmed in writing by both Parties before such further Services shall be rendered by Eazy Contracting to the Subscriber.

#### 4 SUBSCRIPTION FEE AND PAYMENT TERMS

- 4.1 In consideration for access to and use of the Services, the Subscriber is liable for a monthly Subscription Fee.
- 4.2 Payment of the Subscription Fee must be made via –
- 4.2.1 debit order through the Payment Gateway; or
- 4.2.2 electronic funds transferred to Eazy Contracting.
- 4.3 The Subscription Fee will be –
- 4.3.1 debited monthly in advance, where payment is made via debit order, as contemplated in clause 4.2.1; or
- 4.3.2 payable upon the issue of an invoice by Eazy Contracting, monthly in advance of the Services to be rendered for the month, where payment is made via electronic funds transfer, as contemplated in clause 4.2.2.

## 5 REFUND

5.1 If the Subscriber terminates the Subscription within the first 60 (sixty) days of the date on which the Subscriber Account is created, as contemplated in clause 2.4, Eazy Contracting will provide an unconditional full refund of the Subscription Fees paid by the Subscriber.

5.2 A questionnaire will be sent to the Subscriber requesting feedback regarding the Services and the reasons for termination, for the purposes of improving the Services.

## 6 LIMITED LICENSE AND USE OF THE SERVICES

6.1 The Subscriber is granted a non-exclusive, non-transferable, revocable license to access and use the Services.

6.2 The Subscriber agrees that the Users will not at any time attempt or actually (whether alone or in conjunction with any third party) –

6.2.1 alter, reverse-engineer, modify, circumvent, disable, amend, tamper with, frame or mirror the Site or the Eazy Contracting Application change any part of the Site or the Eazy Contracting Application;

6.2.2 infect the Site or the Eazy Contracting Application with any software, malware or code that may infect, damage, delay or impede the operation of the Site or the Eazy Contracting Application or which may intercept, alter or interfere with any data generated by or received through the Site or the Eazy Contracting Application.

6.3 Eazy Contracting reserves the right to temporarily suspend access to the Services for operational purposes, such as routine maintenance of the Site or the Eazy Contracting Application, but undertakes to, where possible, give notice to the Subscriber via email or via the Site of such suspended access.

6.4 In order to access and use the Services, the Site and the Eazy Contracting Application makes use of cookies that must be accepted by the Users' web browser software.

## 7 INTELLECTUAL PROPERTY

7.1 Eazy Contracting is the sole owner (or licensee) of all the intellectual property rights (including, without limitation, copyright, patent, trademarks) owned by or licensed to Eazy Contracting, including, but not limited to, those relating to the Site and to the Eazy Contracting Application.

7.2 Ownership of (or license to) the intellectual property in the Site and the Eazy Contracting Application (including adaptations, modifications, alterations, enhancements and new versions) shall at all times vest in Eazy Contracting and the Subscriber shall not at any time, under any circumstances, acquire any right, title, or interest in this intellectual property.

7.3 The Site and the Eazy Contracting Application is protected by copyright and other intellectual property laws and international treaties.

7.4 The Subscriber shall neither own, nor hereby acquire any claim or right of ownership in or to the Site and/or the Eazy Contracting Application.

## 8 CONFIDENTIALITY

8.1 The Parties are obliged to treat all of the Confidential Information as confidential.

8.2 Any Confidential Information provided to Eazy Contracting may be used by Eazy Contracting –

8.2.1 to operate, maintain, and improve the features and functionality of the Services; and

8.2.2 for internal non-marketing or administrative purposes.

8.3 Any Confidential Information provided to Eazy Contracting through the Subscriber Account is stored by Eazy Contracting on a secure database.

## 9 OBLIGATIONS ON THE SUBSCRIBER IN RESPECT OF PERSONAL INFORMATION

9.1 The Subscriber agrees that, at all times –

9.1.1 it has the sole and absolute responsibility to keep all of the Users' personal information up-to-date, secure and confidential;

9.1.2 it will immediately notify Eazy Contracting via email of any security breach in respect of any Users' personal information that comes to the Subscriber's attention;

9.1.3 it is solely and absolutely responsible for any use of and activity of the Users' personal information; and

9.1.4 it will not at any time attempt or actually allow any third party to use any of the Users' personal information in any manner other than as permitted by this Terms of Use Agreement.

## 10 PROTECTION OF PERSONAL INFORMATION

10.1 Eazy Contracting is committed to business practices in compliance with all relevant legislation, which includes POPI and ECTA.

10.2 For the purposes of this clause, "personal information" (or referred to herein, simply as "information") includes any personal information as specified in POPI, in respect of the Subscriber and Users.

10.3 Eazy Contracting collects information through –

10.3.1 the receipt of Content;

10.3.2 information provided through communications between the Parties; and / or;

10.3.3 trusted third parties as may become reasonably necessary, for the performance of the Services from time to time.

10.4 Eazy Contracting will keep all personal information confidential and only share it with others for the purposes set out in this Terms, of Use Agreement or if the Subscriber has otherwise consented thereto, or if Eazy Contracting is legally obliged or entitled to do so.

10.5 Eazy Contracting has trusted relationships with carefully selected third parties who may perform services on its behalf. All of Eazy Contracting's service providers are required to maintain the security of personal information and to use it only as permitted by Eazy Contracting, and will only share personal information with such service providers as may be reasonably necessary for the proper delivery of the Services and related functions.

10.6 Eazy Contracting may use personal information to –

10.6.1 perform its duties in respect of any Services it provides (or intends to provide) to the Subscriber;

10.6.2 carry out, monitor and analyse its business;

10.6.3 contact the Subscriber by email, SMS, letter, telephone or in any other way about its products and services, unless the Subscriber has informed Eazy Contracting that it would prefer not to receive such marketing communications;

10.6.4 carry out audits;

10.6.5 perform other administrative and operational functions including the testing of its systems;

10.6.6 recover any debt the Subscriber owes to it; and

10.6.7 comply with its regulatory or other obligations.

10.7 Personal information may also be used for other purposes for which the Subscriber has given its permission, or where Eazy Contracting is permitted to do so, or when it is in the public interest to disclose the information.

10.8 The Subscriber may, on reasonable grounds, object to the processing of personal information, after which Eazy Contracting undertakes not to continue to process such information, except as provided for in law.

10.9 Eazy Contracting will make reasonable efforts to keep information updated and correct any information, on request. The Subscriber will need to inform Eazy Contracting if any personal information changes, and acknowledges that the accuracy of personal information partially relies on its co-operation in this regard. The Subscriber may ask Eazy Contracting to correct or remove any information that it believes is inaccurate by sending Eazy Contracting an e-mail to [admin@eazycontracting.com](mailto:admin@eazycontracting.com).

10.10 The Subscriber has the right to request Eazy Contracting to provide it with information that Eazy Contracting holds by sending Eazy Contracting an e-mail to [admin@eazycontracting.com](mailto:admin@eazycontracting.com). The fees that may be charged in order to obtain a copy of the personal information record are prescribed in terms of POPI and Eazy Contracting will provide a quote for such fees before it supplies the Subscriber with any personal information record.

10.11 Eazy Contracting will only retain personal information for as long as it is necessary to fulfil the purposes explicitly set out in this Terms of Use Agreement, unless the retention of a record is required or authorised by law, or the Subscriber has consented to the retention of the record, or for use for statistical purposes. During the period of retention, Eazy Contracting will continue to abide by its non-disclosure obligations and will not share or sell personal information, except as provided for in this Terms of Use Agreement

10.12 Eazy Contracting will only transfer personal information cross-border, as may be reasonably necessary for the proper delivery of the Services and related functions.

## 11 WARRANTIES

11.1 Eazy Contracting warrants that –

11.1.1 it will discharge its obligations under this Terms of Use Agreement with all due skill, care and diligence; and

11.1.2 in carrying out its obligations under this Terms of Use Agreement, it will not infringe any intellectual property rights, or any right of privacy, or any rights of third persons.

11.2 The Subscriber warrants that –

11.2.1 the Users will use the Site and the Services in accordance with this Terms of Use Agreement;

11.2.2 it and the Users will at all times uphold the reputation, interests and goodwill of Eazy Contracting and will not perform any act or fail to perform any act which may result in Eazy Contracting's reputation, interests and goodwill being prejudiced.

11.3 Eazy Contracting does not make any warranties of any nature to the Subscriber regarding the Users' use of the Site, the Subscriber Account or the Services to avoid doubt, but without limitation, Eazy Contracting expressly does not warrant –

11.3.1 that the site, the Subscriber Account and/or the Services will be fully functional at all times;

11.3.2 that any particular functionality relating to the Site, the Subscriber Account and/or the Services will be available at all times;

11.3.3 that the Eazy Contracting Application and/or the Services will be compatible with the computers and devices operated by the Users; and

11.3.4 that the Site, the Subscriber Account and/or the Services will be error free.

## 12 LIMITATION OF LIABILITY

12.1 To the extent permitted under applicable law, Eazy Contracting will not, under any circumstances, be liable to the Subscriber for any costs, claims, damages (including, without limitation, indirect, extrinsic, special, penal, punitive, exemplary or consequential loss or damage of any kind), penalties, actions, judgements, suits, expenses, disbursements, fines or other amounts which the Subscriber may sustain or suffer (or with which the subscriber may be threatened) as the result of, whether directly or indirectly, any act or omission in the course of or in connection with the Users' use of the Site and/or the Services.

12.2 The Subscriber agrees that its sole and exclusive remedy for any dispute of any nature with Eazy Contracting (whether in relation to the Users' use of the Services or otherwise) is to stop using the Services and/or to immediately cancel the Subscriber Account.

## 13 INDEMNITY

The Subscriber hereby indemnifies and holds harmless Eazy Contracting (including its shareholders, directors and employees, in whose favour this constitutes a stipulation capable of acceptance in writing at any time) against any claim (including by any third party) for any costs, damages (including, without limitation, indirect, extrinsic, special, penal, punitive, exemplary or consequential loss or damage of any kind), penalties, actions, judgements, suits, expenses, disbursements, fines or other amounts arising, whether directly or indirectly, arising out of the use of the Services by the Users.

## 14 SUSPENSION AND TERMINATION

Eazy Contracting shall have the right to suspend or terminate the Subscription and the Subscription Account with immediate effect, upon the failure of the Subscriber to pay the Subscription Fee.

## 15 BREACH

If either Party breaches any material provision or term of this Terms of Use Agreement (other than those which contain their own remedies or limit the remedies in the event of a breach thereof) and fails to remedy such breach within 14 (fourteen) days of receipt of written notice requiring it to do so then the aggrieved Party will be entitled without notice, in addition to any other remedy available to it at law or under this Terms of Use Agreement, including obtaining an interdict, to cancel the Subscription or to claim specific performance of any obligation whether or not the due date for performance has arrived, in either event without prejudice to the aggrieved Party's right to claim damages.

## 16 DISCLOSURE REQUIRED BY LAW

Eazy Contracting is required, in terms of section 43 of the ECTA, to disclose the following information –

16.1 Full name: Eazy Costing Proprietary Limited;

16.2 Legal status: Eazy Contracting is a private company, duly incorporated in accordance with the Companies Act, 71 of 2008 (as amended);

16.3 Registration No: 2014/073575/07;

16.4 Directors:

16.4.1 Gayo Primic;

16.4.2 Jacobus Pretorius; and

16.4.3 Richard Drinkrow;

16.5 Description of main business: internet based service provider for contracting company management;

16.6 Telephone number: 021 703-1108;

16.7 Email address: [admin@eazycontracting.com](mailto:admin@eazycontracting.com);

16.8 Website address: <http://www.eazycontracting.com/>;

- 16.9 Physical address: 10 Sibyl Road, Wetton, Western Cape, 7780;
- 16.10 Postal Address: P.O Box 2155, Clareinch, Western Cape, 7740; and
- 16.11 Registered Address: 10 Sibyl Road, Wetton, Western Cape, 7780.

## 17 GOVERNING LAW AND SUBMISSION TO JURISDICTION

- 17.1 This Terms of Use Agreement and any matter arising from this Terms of Use Agreement shall be governed by and interpreted in accordance with the laws of the Republic of South Africa.
- 17.2 Subject to the provisions of clause 18, the Parties hereby consent and submit to the exclusive jurisdiction of the Western Cape High Court of South Africa in respect of any litigation arising out of the use of the Services or this Terms of Use Agreement.

## 18 DISPUTE RESOLUTION

- 18.1 In the event of any dispute or difference arising between the Parties relating to or arising out of the Subscriber's or the Users' use of the Site or the Subscriber Account or the Services or this Terms of Use Agreement, including the implementation, execution, interpretation, rectification, termination or cancellation of the agreement constituted by this Terms of Use Agreement, the said dispute or difference shall be submitted to arbitration in Cape Town in accordance with the Rules of the Arbitration Foundation of Southern Africa (or any succeeding body) by an arbitrator or arbitrators appointed by such Foundation.
- 18.2 Notwithstanding anything to the contrary contained in this Terms of Use Agreement, any party to the arbitration may seek interlocutory relief in any competent court having jurisdiction pending the institution of appropriate proceedings for the enforcement of any rights under this Terms of Use Agreement.
- 18.3 Both Parties undertake to keep the arbitration, including the subject matter of the arbitration and the evidence heard during the arbitration, confidential and not to disclose it to anyone except for the purposes of an order to be made in the arbitration.
- 18.4 The decision of the arbitrator shall, in the absence of manifest error, be final and binding on the Parties and may be made an order of any competent court in the Republic of South Africa at the instance of any Party.
- 18.5 These provisions are separate and severable from the rest of this Terms of Use Agreement and, accordingly, will remain in effect despite the termination or invalidity for any reason of this Terms of Use Agreement.

## 19 AMENDMENT OF THIS TERMS OF USE AGREEMENT

- 19.1 Eazy Contracting is entitled in its sole and absolute discretion, at any time and from time to time, to amend this Terms of Use Agreement and vary the Services and Subscription Fees, upon notice to the Subscriber.
- 19.2 All amendments to this Terms of Use Agreement contemplated in this clause 19 will become effective on the date of notification referred to in clause 19.1 and the updated terms will be displayed on the Site.

- 19.3 The Subscriber may terminate this Terms of Use Agreement within 30 (thirty) days of the date of notification referred to in clause 19.1. If after 30 (thirty) days of the date of notification referred to in clause 19.1 the Subscription has not been terminated by the Subscriber, the Subscriber will be deemed to have accepted and agreed to the amended Agreement in their entirety.

## 20 NOTICES

For all purposes of these Terms of Use, any notice required to be in writing shall include email.

## 21 GENERAL

- 21.1 This Terms of Use Agreement constitutes the whole agreement between the Parties relating to the use of the Services by the Subscriber and the Users and supersedes any other discussions, agreements and/or understandings regarding the Use of the Services.
- 21.2 The Subscriber will not be entitled at any time to cede, transfer or make over any of its rights set out in this Terms of Use Agreement or delegate, transfer or make over any of its obligations set out in these Terms of Use.
- 21.3 No extension of time or waiver or relaxation of any of the provisions of this Terms of Use Agreement by Eazy Contracting or any agreement or other document issued or executed by Eazy Contracting pursuant to or in terms of this Terms of Use Agreement, will preclude Eazy Contracting thereafter from exercising its rights strictly in accordance with this Terms of Use Agreement.
- 21.4 Any provision of this Terms of Use Agreement which is or may become illegal, invalid or unenforceable in any jurisdiction affected by this Terms of Use Agreement will, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability and will be severed from the balance of this Terms of Use Agreement, without invalidating the remaining provisions of this Terms of Use Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.
- 21.5 This Terms of Use Agreement creates a legally binding agreement between the Parties. Accordingly, other than as contemplated in clause 13, this Terms of Use Agreement does not create rights in favour of any third party.

## ANNEXURE A – DESCRIPTION OF SERVICES

### Core Service

Includes:

- Contact Manager
  - Notifications / Scheduling
- Quotes / Jobs
  - Bills of Material
  - Order Status
  - Real-Time Costing
- Call-Outs
  - Client Logs
  - Material
  - Attach Documents / Photos
  - Awaiting Order No's
- Invoicing
- Inventory Control
  - Stock
  - Ordering
  - Store Requisition
  - Pending Transfers
  - Equipment Control
- File Storage
- Reporting
- B2B Contractor / Sub-Contractor Linking
- Mobi
  - Timesheets
    - Call-Outs
    - Jobs
    - Travel
    - Leave
    - Etc.
  - Vehicle / Sub-Stores\*
- Limited Support
  - Email ([support@eazycontracting.com](mailto:support@eazycontracting.com))
  - Ticket-Based Support (<http://eazycontracting.freshdesk.com/>)

### Check Lists

This optional Add-On gives Technicians access to Electronic Check Lists that are attached to Call-Outs and Jobs.

### Manufacturing Module

This optional module can be used to Manufacture Stock-Items In-House for re-sale.

### Contracting Module

This optional module is used to Manage Contracts. (E.g. Maintenance Contracts)

## ANNEXURE B – SUBSCRIPTION FEE TABLE

Core Service (Incl Primary Store, 1st 5 Users + 5Gb Files)	-	R 950	/ month
Users (per additional 5)	-	R 50	/ month
Vehicles / Sub-Stores (ea)	-	R 250	/ month
Files (per additional 50Gb)	-	R 25	/ month
Check-Lists	-	R 500	/ month
Manufacturing Module	-	R 500	/ month
Contracting Module	-	R 500	/ month
Accounting Package Integration*	-	R 250	/ month
<b>Training &amp; Support</b>			
Training (up to*): 8 hrs per Core Service + 2 hrs per 5 additional users + 1 hr per Sub-Store / Vehicle	-	FREE	
Email + Ticket-Based Support	-	FREE	
Importing and Capturing of data	-	R 500	/ hour
Telephone Support (Additional)	-	R 50	/ ¼ hour
On-Site Training (Additional)	-	R 500	/ hour
Outside of Cape Town*: Travel & Accommodation	-	<i>POR</i>	

**\* All Prices are Ex VAT**

Clients are invoiced monthly, in advance, for the Services and Modules that they are using. Support and Training is invoiced monthly in arrears.